

AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR OXLEY OR MR. TOWNS

Strike all after the enacting clause and insert the
following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Commodity Futures Modernization Act of 2000”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

TITLE I—COMMODITY EXCHANGE ACT AMENDMENTS

Sec. 101. Definitions.

Sec. 102. Agreements, contracts, and transactions in foreign currency, govern-
ment securities, and certain other commodities.

Sec. 103. Legal certainty for excluded derivative transactions.

Sec. 104. Excluded electronic trading facilities.

Sec. 105. Hybrid instruments.

Sec. 106. Futures on securities.

Sec. 107. Transactions in exempt commodities.

Sec. 108. Protection of the public interest.

Sec. 109. Prohibited transactions.

Sec. 110. Designation of boards of trade as contract markets.

Sec. 111. Derivatives transaction execution facilities.

Sec. 112. Derivatives clearing organizations.

Sec. 113. Common provisions applicable to registered entities.

Sec. 114. Exempt boards of trade.

Sec. 115. Suspension or revocation of designation as contract market.

Sec. 116. Authorization of appropriations.

Sec. 117. Preemption.

Sec. 118. Predispute resolution agreements for institutional customers.

Sec. 119. Consideration of costs and benefits and antitrust laws.

Sec. 120. Contract enforcement between eligible counterparties.

Sec. 121. Special procedures to encourage and facilitate bona fide hedging by
agricultural producers.

Sec. 122. Rule of construction.

Sec. 123. Technical and conforming amendments.

Sec. 124. Report to Congress.

Sec. 125. Effective date.

Sec. 126. International activities of the Commodity Futures Trading Commission.

TITLE II—SECURITIES ACTS AMENDMENTS

Subtitle A—Amendments

- Sec. 201. Definitions under the Securities Exchange Act of 1934.
Sec. 202. Regulatory relief for markets trading security future products.
Sec. 203. Regulatory relief for intermediaries trading security future products.
Sec. 204. Special provisions for interagency cooperation.
Sec. 205. Maintenance of market integrity for security future products.
Sec. 206. Special provisions for the trading of security future products.
Sec. 207. Clearance and settlement.
Sec. 208. Amendments relating to registration and disclosure issues under the Securities Act of 1933 and the Securities Exchange Act of 1934.
Sec. 209. Amendments to the Investment Company Act of 1940 and the Investment Advisers Act of 1940.

Subtitle B—Conforming Amendments to the Commodity Exchange Act

- Sec. 221. Jurisdiction of Securities and Exchange Commission.
Sec. 222. Application of the Commodity Exchange Act to national securities exchanges and national securities associations that trade security futures.
Sec. 223. Notification of investigations and enforcement actions.

Subtitle C—Effective Date

- Sec. 231. Effective date.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to reauthorize the appropriation for the
4 Commodity Futures Trading Commission;

5 (2) to streamline and eliminate unnecessary
6 regulation for the commodity futures exchanges and
7 other entities regulated under the Commodity Ex-
8 change Act;

9 (3) to transform the role of the Commodity Fu-
10 tures Trading Commission to oversight of the fu-
11 tures markets;

1 (4) to provide a statutory and regulatory frame-
2 work for allowing the trading of futures on securi-
3 ties;

4 (5) to provide the Commission jurisdiction over
5 certain retail foreign exchange transactions and
6 bucket shops that may not be otherwise regulated;

7 (6) to promote innovation for futures and de-
8 rivatives and to reduce systemic risk by enhancing
9 legal certainty in the markets for certain futures and
10 derivatives transactions;

11 (7) to reduce systemic risk and provide greater
12 stability to markets during times of market disorder
13 by allowing the clearing of transactions in over-the-
14 counter derivatives through appropriately regulated
15 clearing organizations; and

16 (8) to enhance the competitive position of
17 United States financial institutions and financial
18 markets.

19 **TITLE I—COMMODITY**
20 **EXCHANGE ACT AMENDMENTS**

21 **SEC. 101. DEFINITIONS.**

22 Section 1a of the Commodity Exchange Act (7 U.S.C.
23 1a) is amended—

24 (1) by redesignating paragraphs (8) through
25 (12), (13) through (15), and (16) as paragraphs

1 (15) through (19), (21) through (24), and (29), re-
2 spectively;

3 (2) by inserting after paragraph (7) the fol-
4 lowing:

5 “(8) DERIVATIVES CLEARING ORGANIZATION.—

6 “(A) IN GENERAL.—The term ‘derivatives
7 clearing organization’ means a clearinghouse,
8 clearing association, clearing corporation, or
9 similar entity, facility, system, or organization
10 that, with respect to a derivative agreement,
11 contract, or transaction—

12 “(i) enables each party to the deriva-
13 tive agreement, contract, or transaction to
14 substitute, through novation or otherwise,
15 the credit of the derivatives clearing orga-
16 nization for the credit of the parties;

17 “(ii) arranges or provides, on a multi-
18 lateral basis, for the settlement or netting
19 of obligations resulting from such agree-
20 ments, contracts, or transactions executed
21 by parties in the derivatives clearing orga-
22 nization; or

23 “(iii) otherwise provides clearing serv-
24 ices or arrangements that mutualize or
25 transfer among parties in the derivatives

1 clearing organization the credit risk arising
2 from such agreements, contracts, or trans-
3 actions executed by the parties.

4 “(B) EXCLUSIONS.—The term ‘derivatives
5 clearing organization’ does not include an enti-
6 ty, facility, system, or organization solely be-
7 cause it arranges or provides for—

8 “(i) settlement, netting, or novation of
9 obligations resulting from agreements, con-
10 tracts, or transactions, on a bilateral basis
11 and without a centralized counterparty;

12 “(ii) settlement or netting of cash
13 payments through an interbank payment
14 system; or

15 “(iii) settlement, netting, or novation
16 of obligations resulting from a sale of a
17 commodity in a transaction in the spot
18 market for the commodity.

19 “(9) ELECTRONIC TRADING FACILITY.—The
20 term ‘electronic trading facility’ means a trading fa-
21 cility that—

22 “(A) operates by means of an electronic
23 network; and

1 “(B) maintains a real-time audit trail of
2 bids, offers, and the matching of orders or the
3 execution of transactions.

4 “(10) ELIGIBLE COMMERCIAL PARTICIPANT.—
5 The term ‘eligible commercial participant’ means a
6 party or entity described in paragraph (11)(A)(i),
7 (ii), (v), or (vii) or paragraph (11)(C), who, in con-
8 nection with its business—

9 “(A) has a demonstrable capacity or abil-
10 ity, directly or through separate contractual ar-
11 rangements, to make or take delivery of the un-
12 derlying physical commodity;

13 “(B) incurs risks, in addition to price risk,
14 related to the commodity; or

15 “(C) is a dealer that regularly provides
16 hedging, risk management, or market-making
17 services to the foregoing entities.

18 “(11) ELIGIBLE CONTRACT PARTICIPANT.—The
19 term ‘eligible contract participant’ means—

20 “(A) acting for its own account—

21 “(i) a financial institution;

22 “(ii) an insurance company regulated
23 by a State or a foreign government (in-
24 cluding a regulated subsidiary or affiliate
25 of such an insurance company);

1 “(iii) an investment company subject
2 to regulation under the Investment Com-
3 pany Act of 1940 (15 U.S.C. 80a–1 et
4 seq.) or a foreign person performing a
5 similar role or function subject as such to
6 foreign regulation (regardless of whether
7 each investor in the investment company or
8 the foreign person is itself an eligible con-
9 tract participant);

10 “(iv) a commodity pool that—

11 “(I) has total assets exceeding
12 \$5,000,000; and

13 “(II) is formed and operated by a
14 person subject to regulation under
15 this Act or a foreign person per-
16 forming a similar role or function sub-
17 ject as such to foreign regulation (re-
18 gardless of whether each investor in
19 the commodity pool or the foreign per-
20 son is itself an eligible contract partic-
21 ipant);

22 “(v) a corporation, partnership, pro-
23 prietorship, organization, trust, or other
24 entity—

1 “(I) that has total assets exceed-
2 ing \$10,000,000;

3 “(II) the obligations of which
4 under an agreement, contract, or
5 transaction are guaranteed or other-
6 wise supported by a letter of credit or
7 keepwell, support, or other agreement
8 by an entity described in subclause
9 (I), in clause (i), (ii), (iii), (iv), or
10 (vii), or in subparagraph (C); or

11 “(III) that—

12 “(aa) has a net worth ex-
13 ceeding \$1,000,000; and

14 “(bb) enters into an agree-
15 ment, contract, or transaction in
16 connection with the conduct of
17 the entity’s business or to man-
18 age the risk associated with an
19 asset or liability owned or in-
20 curred or reasonably likely to be
21 owned or incurred by the entity
22 in the conduct of the entity’s
23 business;

24 “(vi) an employee benefit plan subject
25 to the Employee Retirement Income Secu-

1 rity Act of 1974 (29 U.S.C. 1001 et seq.)
2 or a foreign person performing a similar
3 role or function subject as such to foreign
4 regulation—

5 “(I) that has total assets exceed-
6 ing \$5,000,000; or

7 “(II) the investment decisions of
8 which are made by—

9 “(aa) an investment advisor
10 or commodity trading advisor
11 subject to regulation under the
12 Investment Advisers Act of 1940
13 (15 U.S.C. 80b–1 et seq.) or this
14 Act;

15 “(bb) a foreign person per-
16 forming a similar role or function
17 subject as such to foreign regula-
18 tion;

19 “(cc) a financial institution;
20 or

21 “(dd) an insurance company
22 regulated by a State or a foreign
23 government (including a regu-
24 lated subsidiary or affiliate of
25 such an insurance company);

1 “(vii)(I) a governmental entity (in-
2 cluding the United States, a State, or a
3 foreign government) or political subdivision
4 of a governmental entity;

5 “(II) a multinational or supranational
6 government entity; or

7 “(III) an instrumentality, agency, or
8 department of an entity described in sub-
9 clause (I) or (II);

10 “(viii)(I) a broker or dealer subject to
11 regulation under the Securities Exchange
12 Act of 1934 (15 U.S.C. 78a et seq.) or a
13 foreign person performing a similar role or
14 function subject as such to foreign regula-
15 tion, except that, if the broker or dealer or
16 foreign person is a natural person or pro-
17 prietorship, the broker or dealer or foreign
18 person shall not be considered to be an eli-
19 gible contract participant unless the broker
20 or dealer or foreign person also meets the
21 requirements of clause (v) or (xi);

22 “(II) an associated person of a reg-
23 istered broker or dealer concerning the fi-
24 nancial or securities activities of which the
25 registered person makes and keeps records

1 under section 15C(b) or 17(h) of the Secu-
2 rities Exchange Act of 1934 (15 U.S.C.
3 78o-5(b), 78q(h));

4 “(III) an investment bank holding
5 company (as defined in section 17(i) of the
6 Securities Exchange Act of 1934 (15
7 U.S.C. 78q(i));

8 “(ix)(I) a futures commission mer-
9 chant subject to regulation under this Act
10 or a foreign person performing a similar
11 role or function subject as such to foreign
12 regulation, except that, if the futures com-
13 mission merchant or foreign person is a
14 natural person or proprietorship, the fu-
15 tures commission merchant or foreign per-
16 son shall not be considered to be an eligi-
17 ble contract participant unless the futures
18 commission merchant or foreign person
19 also meets the requirements of clause (v)
20 or (xi); or

21 “(II) an associated person of a reg-
22 istered futures commission merchant con-
23 cerning the financial activities of which the
24 registered person makes and keeps records
25 under section 4f(c)(2)(B) of this Act;

1 “(x) a floor broker or floor trader sub-
2 ject to regulation under this Act in connec-
3 tion with any transaction that takes place
4 on or through the facilities of a registered
5 entity or an exempt board of trade, or any
6 affiliate thereof, on which such person reg-
7 ularly trades; or

8 “(xi) a natural person with total as-
9 sets exceeding \$10,000,000;

10 “(B)(i) a person described in any of
11 clauses (i), (ii), (vii), (ix), or (x) of subpara-
12 graph (A) or in subparagraph (C), acting as
13 broker or performing an equivalent agency
14 function on behalf of another person described
15 in subparagraph (A) or (C); or

16 “(ii) an investment adviser subject to regu-
17 lation under the Investment Advisors Act of
18 1940, a commodity trading advisor subject to
19 regulation under this Act, a foreign person per-
20 forming a similar role or function subject as
21 such to foreign regulation, or a person de-
22 scribed in any of clauses (i), (ii), (vii), (ix), or
23 (x) of subparagraph (A) or in subparagraph
24 (C), in any such case acting as investment man-
25 ager or fiduciary (but excluding a person acting

1 as broker or performing an equivalent agency
2 function) for another person described in sub-
3 paragraph (A) or (C) and who is authorized by
4 such person to commit such person to the
5 transaction; or

6 “(C) any other person that the Commis-
7 sion determines to be eligible in light of the fi-
8 nancial or other qualifications of the person.

9 “(12) EXCLUDED COMMODITY.—The term ‘ex-
10 cluded commodity’ means—

11 “(A) an interest rate, exchange rate, cur-
12 rency, security, security index, credit risk or
13 measure, debt or equity instrument, or index or
14 measure of inflation;

15 “(B) any other rate, differential, index, or
16 measure of economic or commercial risk, re-
17 turn, or value that—

18 “(i) is not within the control of any
19 party to the relevant contract, agreement,
20 or transaction; and

21 “(ii) is not based in substantial part
22 on the value of a limited number of com-
23 modities not described in subparagraph
24 (A) that have a finite supply; or

1 “(C) an occurrence, extent of an occur-
2 rence, or contingency associated with commer-
3 cial or economic consequences beyond the con-
4 trol of the parties to the relevant contract,
5 agreement, or transaction.

6 “(13) EXEMPT COMMODITY.—The term ‘exempt
7 commodity’ means a commodity that is not an ex-
8 cluded commodity and is not an agricultural com-
9 modity.

10 “(14) FINANCIAL INSTITUTION.—The term ‘fi-
11 nancial institution’ means—

12 “(A) a corporation operating under the
13 fifth undesignated paragraph of section 25 of
14 the Federal Reserve Act (12 U.S.C. 603), com-
15 monly known as ‘an agreement corporation’;

16 “(B) a corporation organized under section
17 25A of the Federal Reserve Act (12 U.S.C. 611
18 et seq.), commonly known as an ‘Edge Act cor-
19 poration’;

20 “(C) an institution that is regulated by the
21 Farm Credit Administration;

22 “(D) a Federal credit union or State credit
23 union (as defined in section 101 of the Federal
24 Credit Union Act (12 U.S.C. 1752));

1 “(E) a depository institution (as defined in
2 section 3 of the Federal Deposit Insurance Act
3 (12 U.S.C. 1813));

4 “(F) a foreign bank or a branch or agency
5 of a foreign bank (each as defined in section
6 1(b) of the International Banking Act of 1978
7 (12 U.S.C. 3101(b)));

8 “(G) a financial holding company (as de-
9 fined in section 2 of the Bank Holding Com-
10 pany Act of 1956 (12 U.S.C. 1841));

11 “(H) a trust company; or

12 “(I) a similarly regulated subsidiary or af-
13 filiate of an entity described in any of subpara-
14 graphs (A) through (H).”;

15 (3) by inserting after paragraph (19) (as redes-
16 ignated by paragraph (1)) the following:

17 “(20) HYBRID INSTRUMENT.—The term ‘hybrid
18 instrument’ means a deposit (as defined in section 3
19 of the Federal Deposit Insurance Act (12 U.S.C.
20 1813)) offered by a financial institution, or a secu-
21 rity, having 1 or more payments indexed to the
22 value, level, or rate of 1 or more commodities.”;

23 (4) by inserting after paragraph (22) (as redes-
24 ignated by paragraph (1)) the following:

1 “(23)(A) MARGIN.—The term ‘margin’, when
2 used with respect to a security future product,
3 means the amount, type, and form of collateral re-
4 quired to secure any extension or maintenance of
5 credit, or the amount, type, and form of collateral
6 required as a performance bond related to the pur-
7 chase, sale, or carrying of a security future product,
8 and all other uses of collateral related to the pur-
9 chasing, selling, or carrying of a security future
10 product.

11 “(B) The terms ‘margin level’ and ‘level of mar-
12 gin’, when used with respect to a security future
13 product, mean the amount of margin required to se-
14 cure any extension or maintenance of credit, or the
15 amount of margin required as a performance bond
16 related to the purchase, sale, or carrying of a secu-
17 rity future product.

18 “(C) The terms ‘higher margin level’ and ‘high-
19 er level of margin’, when used with respect to a se-
20 curity future product, mean a margin level estab-
21 lished by a contract market that is higher than the
22 minimum amount established by the Commission
23 and the Securities and Exchange Commission pursu-
24 ant to section 2(a)(1)(D)(vi)(IV)(ii) of this Act.”;

1 (5) by inserting after paragraph (24) (as redes-
2 ignated by paragraph (1)) the following:

3 “(25) NARROW-BASED SECURITY INDEX.—The
4 term ‘narrow-based security index’ means an index
5 of securities on which contracts for future delivery
6 are not permitted under section 2(a)(1)(C) of this
7 Act, including any interest therein or based on the
8 value thereof.

9 “(26) NONEXEMPT SECURITY.—The term ‘non-
10 exempt security’ means a security that is not an ex-
11 empted security under section 3(a)(12) of the Secu-
12 rities Exchange Act of 1934 (other than any munic-
13 ipal security, as defined in section 3(a)(29) of the
14 Securities Exchange Act of 1934).

15 “(27) OPTION.—The term ‘option’ means an
16 agreement, contract, or transaction that is of the
17 character of, or is commonly known to the trade as,
18 an ‘option’, ‘privilege’, ‘indemnity’, ‘bid’, ‘offer’,
19 ‘put’, ‘call’, ‘advance guaranty’, or ‘decline guar-
20 anty’.

21 “(28) ORGANIZED EXCHANGE.—The term ‘or-
22 ganized exchange’ means a trading facility that—

23 “(A) permits trading—

24 “(i) by or on behalf of a person that
25 is not an eligible contract participant; or

1 “(ii) by persons other than on a prin-
2 cipal-to-principal basis; or

3 “(B) has adopted (directly or through an-
4 other nongovernmental entity) rules that—

5 “(i) govern the conduct of partici-
6 pants, other than rules that govern the
7 submission of orders or execution of trans-
8 actions on the trading facility; or

9 “(ii) include disciplinary sanctions
10 other than the exclusion of participants
11 from trading.”; and

12 (6) by adding at the end the following:

13 “(30) REGISTERED ENTITY.—The term ‘reg-
14 istered entity’ means—

15 “(A) a board of trade designated as a con-
16 tract market under section 5;

17 “(B) a derivatives transaction execution fa-
18 cility registered under section 5a; or

19 “(C) a derivatives clearing organization
20 registered under section 5b.

21 “(31) SECURITY.—The term ‘security’ means a
22 security as defined in section 2(a)(1) of the Securi-
23 ties Act of 1933 (15 U.S.C. 77b(a)(1)), section
24 3(a)(10) of the Securities Exchange Act of 1934 (15
25 U.S.C. 78c(a)(10)), section 202(a)(18) of the Invest-

1 ment Advisers Act of 1940 (15 U.S.C. 80b–
2 2(a)(18)), or section 2(a)(36) of the Investment
3 Company Act of 1940 (15 U.S.C. 80a–2(a)(36)).

4 “(32) SECURITY FUTURE.—The term ‘security
5 future’ means a contract of sale for future delivery
6 of a single security or of a narrow-based security
7 index, including any interest therein or based on the
8 value thereof, except an exempted security under
9 section 3 of the Securities Act of 1933 or section
10 3(a)(12) of the Securities Exchange Act of 1934 as
11 in effect on the date of enactment of the Futures
12 Trading Act of 1982 (other than any municipal se-
13 curity as defined in section 3(a)(29) of the Securi-
14 ties Exchange Act of 1934 on the date of enactment
15 of the Futures Trading Act of 1982).

16 “(33) SECURITY FUTURE PRODUCT.—The term
17 ‘security future product’ means a security future or
18 any put, call, straddle, option, or privilege on any se-
19 curity future.

20 “(34) TRADING FACILITY.—

21 “(A) IN GENERAL.—The term ‘trading fa-
22 cility’ means a person or group of persons that
23 constitutes, maintains, or provides a physical or
24 electronic facility or system in which multiple
25 participants have the ability to execute or trade

1 agreements, contracts, or transactions by ac-
2 cepting bids and offers made by other partici-
3 pants that are open to multiple participants in
4 the facility or system.

5 “(B) EXCLUSIONS.—The term ‘trading fa-
6 cility’ does not include—

7 “(i) a person or group of persons sole-
8 ly because the person or group of persons
9 constitutes, maintains, or provides an elec-
10 tronic facility or system that enables par-
11 ticipants to negotiate the terms of and
12 enter into bilateral transactions as a result
13 of communications exchanged by the par-
14 ties and not from interaction of multiple
15 orders within a predetermined, nondis-
16 cretionary automated trade matching algo-
17 rithm;

18 “(ii) a government securities dealer or
19 government securities broker, to the extent
20 that the dealer or broker executes or
21 trades agreements, contracts, or trans-
22 actions in government securities, or assists
23 persons in communicating about, negoti-
24 ating, entering into, executing, or trading
25 an agreement, contract, or transaction in

1 government securities (as the terms ‘gov-
2 ernment securities dealer’, ‘government se-
3 curities broker’, and ‘government securi-
4 ties’ are defined in section 3(a) of the Se-
5 curities Exchange Act of 1934 (15 U.S.C.
6 78c(a))); or

7 “(iii) facilities on which bids and of-
8 fers, and acceptances of bids and offers ef-
9 fected on the facility, are not binding.”.

10 **SEC. 102. AGREEMENTS, CONTRACTS, AND TRANSACTIONS**
11 **IN FOREIGN CURRENCY, GOVERNMENT SECU-**
12 **RITIES, AND CERTAIN OTHER COMMODITIES.**

13 Section 2 of the Commodity Exchange Act (7 U.S.C.
14 2, 2a, 3, 4, 4a) is amended by adding at the end the fol-
15 lowing:

16 “(c) AGREEMENTS, CONTRACTS, AND TRANSACTIONS
17 IN FOREIGN CURRENCY, GOVERNMENT SECURITIES, AND
18 CERTAIN OTHER COMMODITIES.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), nothing in this Act (other than section 5b
21 or 12(e)(2)(B)) governs or applies to an agreement,
22 contract, or transaction in—

23 “(A) foreign currency;

24 “(B) government securities;

25 “(C) security warrants;

1 “(D) security rights;

2 “(E) resales of installment loan contracts;

3 “(F) repurchase transactions in an ex-
4 cluded commodity; or

5 “(G) mortgages or mortgage purchase
6 commitments.

7 “(2) COMMISSION JURISDICTION.—

8 “(A) AGREEMENTS, CONTRACTS, AND
9 TRANSACTIONS THAT ARE FUTURES TRADED
10 ON AN ORGANIZED EXCHANGE.—This Act ap-
11 plies to, and the Commission shall have juris-
12 diction over, an agreement, contract, or trans-
13 action described in paragraph (1) that is—

14 “(i) a contract of sale of a commodity
15 for future delivery (or an option thereon),
16 or an option on a commodity (other than
17 foreign currency or a security), that is exe-
18 cuted or traded on an organized exchange;
19 or

20 “(ii) an option on foreign currency
21 and is executed or traded on an organized
22 exchange that is not a national securities
23 exchange.

24 “(B) AGREEMENTS, CONTRACTS, AND
25 TRANSACTIONS IN RETAIL FOREIGN CUR-

1 RENCY.—This Act applies to, and the Commis-
2 sion shall have jurisdiction over, an agreement,
3 contract, or transaction in foreign currency
4 that—

5 “(i) is a contract of sale for future de-
6 livery (or an option on such a contract) or
7 an option; and

8 “(ii) is offered to, or entered into
9 with, a person that is not an eligible con-
10 tract participant, unless the counterparty,
11 or the person offering to be the
12 counterparty, of the person is—

13 “(I) a financial institution;

14 “(II) a broker or dealer reg-
15 istered under section 15(b) or 15C of
16 the Securities Exchange Act of 1934
17 (15 U.S.C. 78o(b), 78o–5) or a fu-
18 tures commission merchant registered
19 under this Act;

20 “(III) an associated person of a
21 broker or dealer registered under sec-
22 tion 15(b) or 15C of the Securities
23 Exchange Act of 1934 (15 U.S.C.
24 78o(b), 78o–5), or an affiliated person
25 of a futures commission merchant

1 registered under this Act, concerning
2 the financial or securities activities of
3 which the registered person makes
4 and keeps records under section
5 15C(b) or 17(h) of the Securities Ex-
6 change Act of 1934 (15 U.S.C. 78o-
7 5(b), 78q(h)) or section 4f(c)(2)(B) of
8 this Act;

9 “(IV) an insurance company that
10 is subject to State regulation (includ-
11 ing a subsidiary or affiliate of such an
12 insurance company);

13 “(V) a financial holding company
14 (as defined in section 2 of the Bank
15 Holding Company Act of 1956); or

16 “(VI) an investment bank hold-
17 ing company (as defined in section
18 17(i) of the Securities Exchange Act
19 of 1934).”.

20 **SEC. 103. LEGAL CERTAINTY FOR EXCLUDED DERIVATIVE**
21 **TRANSACTIONS.**

22 Section 2 of the Commodity Exchange Act (7 U.S.C.
23 2, 2a, 3, 4, 4a) (as amended by section 4) is amended
24 by adding at the end the following:

25 “(d) EXCLUDED DERIVATIVE TRANSACTIONS.—

1 “(1) IN GENERAL.—Nothing in this Act (other
2 than section 5b or 12(e)(2)(B)) governs or applies to
3 an agreement, contract, or transaction in an ex-
4 cluded commodity if—

5 “(A) the agreement, contract, or trans-
6 action is entered into only between persons that
7 are eligible contract participants at the time at
8 which the persons enter into the agreement,
9 contract, or transaction; and

10 “(B) the agreement, contract, or trans-
11 action is not executed or traded on a trading fa-
12 cility.

13 “(2) ELECTRONIC TRADING FACILITY EXCLU-
14 SION.—Nothing in this Act (other than section 5a,
15 5b, or 12(e)(2)(B)) governs or applies to an agree-
16 ment, contract, or transaction in an excluded com-
17 modity if—

18 “(A) the agreement, contract, or trans-
19 action is entered into on a principal-to-principal
20 basis between parties trading for their own ac-
21 counts or as described in section 1a(11)(B)(ii)
22 of this Act;

23 “(B) the agreement, contract, or trans-
24 action is entered into only between persons that
25 are eligible contract participants (as defined in

1 sections 1a(11)(A), (B)(ii), and (C)) at the time
2 at which the persons enter into the agreement,
3 contract, or transaction; and
4 “(C) the agreement, contract, or trans-
5 action is executed or traded on an electronic
6 trading facility.”.

7 **SEC. 104. EXCLUDED ELECTRONIC TRADING FACILITIES.**

8 Section 2 of the Commodity Exchange Act (7 U.S.C.
9 2, 2a, 3, 4, 4a) (as amended by section 103) is amended
10 by adding at the end the following:

11 “(e) EXCLUDED ELECTRONIC TRADING FACILI-
12 TIES.—

13 “(1) IN GENERAL.—Nothing in this Act (other
14 than section 12(e)(2)(B)) governs or is applicable to
15 an electronic trading facility that limits transactions
16 authorized to be conducted on its facilities to those
17 satisfying the requirements of sections 2(d)(2) and
18 2(h)(3)(B) of this Act.

19 “(2) EFFECT ON AUTHORITY TO ESTABLISH
20 AND OPERATE.—Nothing in this Act shall prohibit a
21 board of trade designated by the Commission as a
22 contract market or derivatives transaction execution
23 facility, or an exempt board of trade, from estab-
24 lishing and operating an excluded electronic trading

1 facility excluded under this Act pursuant to para-
2 graph (1).”.

3 **SEC. 105. HYBRID INSTRUMENTS.**

4 Section 2 of the Commodity Exchange Act (7 U.S.C.
5 2, 2a, 3, 4, 4a) (as amended by section 104) is amended
6 by adding at the end the following:

7 “(f) EXCLUSION FOR QUALIFYING HYBRID INSTRU-
8 MENTS.—

9 “(1) IN GENERAL.—Nothing in this Act (other
10 than section 12(e)(2)(B)) governs or is applicable to
11 a hybrid instrument that is predominantly a security
12 or depository instrument.

13 “(2) PREDOMINANCE.—A hybrid instrument
14 shall be considered to be predominantly a security or
15 depository instrument if—

16 “(A) the issuer of the hybrid instrument
17 receives payment in full of the purchase price of
18 the hybrid instrument, substantially contem-
19 poraneously with delivery of the hybrid instru-
20 ment;

21 “(B) the purchaser or holder of the hybrid
22 instrument is not required to make any pay-
23 ment to the issuer in addition to the purchase
24 price paid under subparagraph (A), whether as
25 margin, settlement payment, or otherwise, dur-

1 ing the life of the hybrid instrument or at ma-
2 turity;

3 “(C) the issuer of the hybrid instrument is
4 not subject by the terms of the instrument to
5 mark-to-market margining requirements; and

6 “(D) the hybrid instrument is not mar-
7 keted as a contract of sale for future delivery
8 of a commodity (or option on such a contract)
9 subject to this Act.

10 “(3) MARK-TO-MARKET MARGINING REQUIRE-
11 MENTS.—For the purposes of paragraph (2)(C),
12 mark-to-market margining requirements do not in-
13 clude the obligation of an issuer of a secured debt
14 instrument to increase the amount of collateral held
15 in pledge for the benefit of the purchaser of the se-
16 cured debt instrument to secure the repayment obli-
17 gations of the issuer under the secured debt instru-
18 ment.”.

19 **SEC. 106. FUTURES ON SECURITIES.**

20 Section 2 of the Commodity Exchange Act (7 U.S.C.
21 2, 2a, 3, 4, 4a) (as amended by section 105) is amended
22 by adding at the end the following:

23 “(g) Notwithstanding any other provision of law:

24 “(1) This Act shall not apply to and the Com-
25 mission shall have no jurisdiction to designate a

1 board of trade as a contract market for any trans-
2 action whereby any party to the transaction acquires
3 a put, call, or other option on 1 or more securities
4 (as defined in section 2(a)(1) of the Securities Act
5 of 1933 or section 3(a)(10) of the Securities Ex-
6 change Act of 1934, on the date of enactment of the
7 Futures Trading Act of 1982), including any group
8 or index of securities and any interest in or based
9 on the value of securities.

10 “(2) Nothing in this subsection governs or ap-
11 plies to—

12 “(A) an agreement, contract, or trans-
13 action in a commodity that is excluded under
14 subsection (c) or (d);

15 “(B) an electronic trading facility that is
16 excluded under subsection (e); or

17 “(C) a hybrid instrument that is covered
18 by an exclusion under subsection (f) or an ex-
19 emption granted by the Commission under sec-
20 tion 4(c) (whether or not the hybrid instrument
21 is otherwise subject to this Act).”.

22 **SEC. 107. TRANSACTIONS IN EXEMPT COMMODITIES.**

23 Section 2 of the Commodity Exchange Act (7 U.S.C.
24 2, 2a, 3, 4, 4a) (as amended by section 106) is amended
25 by adding at the end the following.

1 “(h) LEGAL CERTAINTY FOR CERTAIN TRANS-
2 ACTIONS IN EXEMPT COMMODITIES.—

3 “(1) Except as provided in paragraph (2) of
4 this subsection, nothing in this Act shall apply to a
5 contract, agreement or transaction in an exempt
6 commodity which—

7 “(A) is entered into solely between persons
8 that are eligible contract participants at the
9 time they enter into the agreement, contract, or
10 transaction; and

11 “(B) is not entered into on a trading facil-
12 ity.

13 “(2) An agreement, contract, or transaction de-
14 scribed in paragraph (1) of this subsection shall be
15 subject to—

16 “(A) sections 5b and 12(e)(2)(B) of this
17 Act;

18 “(B) sections 4b and 4o of this Act and
19 the regulations of the Commission pursuant to
20 section 4c(b) of this Act proscribing fraud in
21 connection with commodity option transactions,
22 to the extent such agreement, contract, or
23 transaction is not between eligible commercial
24 participants and would otherwise be subject to
25 those provisions; and

1 “(C) sections 6(c) and 9(a)(2) of this Act
2 to the extent they prohibit manipulation of the
3 market price of any commodity in interstate
4 commerce, to the extent such agreement, con-
5 tract, or transaction would otherwise be subject
6 to those provisions.

7 “(3) Except as provided in paragraph (4) of
8 this subsection, nothing in this Act shall apply to an
9 agreement, contract, or transaction in an exempt
10 commodity (other than a metal commodity) which—

11 “(A) is entered into on a principal-to-prin-
12 cipal basis solely between persons that are eligi-
13 ble contract participants at the time at which
14 the persons enter into the agreement, contract,
15 or transaction; and

16 “(B) is executed or traded on an electronic
17 trading facility.

18 “(4) An agreement, contract, or transaction de-
19 scribed in paragraph (3) shall be subject to—

20 “(A) sections 5b and 12(e)(2)(B) of this
21 Act;

22 “(B) sections 4b and 4o of this Act and
23 the regulations of the Commission pursuant to
24 section 4c(b) of this Act proscribing fraud in
25 connection with commodity option transactions

1 and section 6(c) and 9(a)(2) of this Act, to the
2 extent these provisions prohibit manipulation of
3 the market price of any commodity in interstate
4 commerce, to the extent such agreement, con-
5 tract, or transaction would otherwise be subject
6 to those provisions; and

7 “(C) such rules and regulations as the
8 Commission may prescribe if necessary to en-
9 sure timely dissemination by the electronic trad-
10 ing facility of price, trading volume, and other
11 trading data to the extent appropriate, if the
12 Commission determines that the electronic trad-
13 ing facility performs a significant price dis-
14 covery function for transactions related to the
15 commodity executed or traded on the electronic
16 trading facility.”.

17 **SEC. 108. PROTECTION OF THE PUBLIC INTEREST.**

18 The Commodity Exchange Act is amended by striking
19 section 3 (7 U.S.C. 5) and inserting the following:

20 **“SEC. 3. FINDINGS AND PURPOSE.**

21 “(a) FINDINGS.—The futures contracts and options
22 contracts that are subject to this Act are entered into reg-
23 ularly in interstate and international commerce and are
24 affected with a national public interest by providing a
25 means for managing and assuming price risks, discovering

1 prices, and disseminating pricing information through
2 trading in liquid, fair and financially secure trading facili-
3 ties.

4 “(b) PURPOSE.—It is the purpose of this Act to serve
5 the public interests described in subsection (a) through a
6 system of effective self-regulation of trading facilities,
7 clearing systems, market participants and market profes-
8 sionals under the oversight of the Commission. To foster
9 these public interests, it is further the purpose of this Act
10 to deter and prevent price manipulation or any other dis-
11 ruptions to market integrity; to ensure the financial integ-
12 rity of all transactions subject to this Act and the avoid-
13 ance of systemic risk; to protect all market participants
14 from fraudulent or other abusive sales practices and mis-
15 uses of customer assets; and to promote responsible inno-
16 vation and fair competition among boards of trade, other
17 markets and market participants.”.

18 **SEC. 109. PROHIBITED TRANSACTIONS.**

19 Section 4c of the Commodity Exchange Act (7 U.S.C.
20 6c) is amended by striking “SEC. 4c.” and all that follows
21 through subsection (a) and inserting the following:

22 **“SEC. 4c. PROHIBITED TRANSACTIONS.**

23 “(a) IN GENERAL.—

24 “(1) PROHIBITION.—It shall be unlawful for
25 any person to offer to enter into, enter into, or con-

1 firm the execution of a transaction described in
2 paragraph (2) involving any commodity if the trans-
3 action is used or may be used to—

4 “(A) hedge any transaction in interstate
5 commerce in the commodity or the product or
6 byproduct of the commodity;

7 “(B) determine the price basis of any such
8 transaction in interstate commerce in the com-
9 modity; or

10 “(C) deliver any such commodity sold,
11 shipped, or received in interstate commerce for
12 the execution of the transaction.

13 “(2) TRANSACTION.—A transaction referred to
14 in paragraph (1) is a transaction that—

15 “(A)(i) is, is of the character of, or is com-
16 monly known to the trade as, a ‘wash sale’ or
17 ‘accommodation trade’; or

18 “(ii) is a fictitious sale; or

19 “(B) is used to cause any price to be re-
20 ported, registered, or recorded that is not a
21 true and bona fide price.”.

22 **SEC. 110. DESIGNATION OF BOARDS OF TRADE AS CON-**
23 **TRACT MARKETS.**

24 The Commodity Exchange Act is amended—

1 (1) by redesignating section 5b (7 U.S.C. 7b)
2 as section 5e; and

3 (2) by striking sections 5 and 5a (7 U.S.C. 7,
4 7a) and inserting the following:

5 **“SEC. 5. DESIGNATION OF BOARDS OF TRADE AS CON-**
6 **TRACT MARKETS.**

7 “(a) APPLICATIONS.—A board of trade applying to
8 the Commission for designation as a contract market shall
9 submit an application to the Commission that includes any
10 relevant materials and records the Commission may re-
11 quire consistent with this Act.

12 “(b) CRITERIA FOR DESIGNATION.—

13 “(1) IN GENERAL.—To be designated as a con-
14 tract market, the board of trade shall demonstrate
15 to the Commission that the board of trade meets the
16 criteria specified in this subsection.

17 “(2) PREVENTION OF MARKET MANIPULA-
18 TION.—The board of trade shall have the capacity to
19 prevent market manipulation through market sur-
20 veillance, compliance, and enforcement practices and
21 procedures, including methods for conducting real-
22 time monitoring of trading and comprehensive and
23 accurate trade reconstructions.

24 “(3) FAIR AND EQUITABLE TRADING.—The
25 board of trade shall establish and enforce trading

1 rules to ensure fair and equitable trading through
2 the facilities of the contract market, and the capac-
3 ity to detect, investigate, and discipline any person
4 that violates the rules. Such rules may authorize—

5 “(A) an exchange of—

6 “(i) futures in connection with a cash
7 commodity transaction;

8 “(ii) futures for cash commodities;

9 “(iii) transfer trades or office trades;

10 or

11 “(iv) futures for swaps; and

12 “(B) a futures commission merchant, act-
13 ing as principal or agent, to enter into or con-
14 firm the execution of a contract for the pur-
15 chase or sale of a commodity for future delivery
16 if the contract is reported, recorded, or cleared
17 in accordance with the rules of the contract
18 market or a derivatives clearing organization.

19 “(4) TRADE EXECUTION FACILITY.—The board
20 of trade shall—

21 “(A) establish and enforce rules defining,
22 or specifications detailing, the manner of oper-
23 ation of the trade execution facility maintained
24 by the board of trade, including rules or speci-

1 fications describing the operation of any elec-
2 tronic matching platform; and

3 “(B) demonstrate that the trading facility
4 operates in accordance with the rules or speci-
5 fications.

6 “(5) FINANCIAL INTEGRITY OF TRANS-
7 ACTIONS.—The board of trade shall establish and
8 enforce rules and procedures for ensuring the finan-
9 cial integrity of transactions entered into by or
10 through the facilities of the contract market.

11 “(6) DISCIPLINARY PROCEDURES.—The board
12 of trade shall establish and enforce disciplinary pro-
13 cedures that authorize the board of trade to dis-
14 cipline, suspend, or expel members or market par-
15 ticipants that violate the rules of the board of trade,
16 or similar methods for performing the same func-
17 tions, including delegation of the functions to third
18 parties.

19 “(7) PUBLIC ACCESS.—The board of trade shall
20 provide the public with access to the rules, regula-
21 tions, and contract specifications of the board of
22 trade.

23 “(8) ABILITY TO OBTAIN INFORMATION.—The
24 board of trade shall establish and enforce rules that
25 will allow the board of trade to obtain any necessary

1 information to perform any of the functions de-
2 scribed in this subsection, including the capacity to
3 carry out such international information-sharing
4 agreements as the Commission may require.

5 “(c) EXISTING CONTRACT MARKETS.—A board of
6 trade that is designated as a contract market on the effec-
7 tive date of the Commodity Futures Modernization Act of
8 2000 shall be considered to be a designated contract mar-
9 ket under this section.

10 “(d) CORE PRINCIPLES FOR CONTRACT MARKETS.—

11 “(1) IN GENERAL.—To maintain the designa-
12 tion of a board of trade as a contract market, a
13 board of trade shall comply with the core principles
14 specified in this subsection.

15 “(2) COMPLIANCE WITH RULES.—The board of
16 trade shall monitor and enforce compliance with the
17 rules of the contract market, including the terms
18 and conditions of any contracts to be traded and any
19 limitations on access to the contract market.

20 “(3) CONTRACTS NOT READILY SUBJECT TO
21 MANIPULATION.—The board of trade shall list on
22 the contract market only contracts that are not
23 readily susceptible to manipulation.

24 “(4) MONITORING OF TRADING.—The board of
25 trade shall monitor trading to prevent manipulation,

1 price distortion, and disruptions of the delivery or
2 cash-settlement process.

3 “(5) POSITION LIMITATIONS OR ACCOUNT-
4 ABILITY.—To reduce the potential threat of market
5 manipulation or congestion, especially during trading
6 in the delivery month, the board of trade shall adopt
7 position limitations or position accountability for
8 speculators, where necessary and appropriate.

9 “(6) EMERGENCY AUTHORITY.—The board of
10 trade shall adopt rules to provide for the exercise of
11 emergency authority, in consultation or cooperation
12 with the Commission, where necessary and appro-
13 priate, including the authority to—

14 “(A) liquidate or transfer open positions in
15 any contract;

16 “(B) suspend or curtail trading in any con-
17 tract; and

18 “(C) require market participants in any
19 contract to meet special margin requirements.

20 “(7) AVAILABILITY OF GENERAL INFORMA-
21 TION.—The board of trade shall make available to
22 market authorities, market participants, and the
23 public information concerning—

24 “(A) the terms and conditions of the con-
25 tracts of the contract market; and

1 “(B) the mechanisms for executing trans-
2 actions on or through the facilities of the con-
3 tract market.

4 “(8) DAILY PUBLICATION OF TRADING INFOR-
5 MATION.—The board of trade shall make public
6 daily information on settlement prices, volume, open
7 interest, and opening and closing ranges for actively
8 traded contracts on the contract market.

9 “(9) EXECUTION OF TRANSACTIONS.—The
10 board of trade shall provide a competitive, open, and
11 efficient market and mechanism for executing trans-
12 actions.

13 “(10) TRADE INFORMATION.—The board of
14 trade shall maintain rules and procedures to provide
15 for the recording and safe storage of all identifying
16 trade information in a manner that enables the con-
17 tract market to use the information for purposes of
18 assisting in the prevention of customer and market
19 abuses and providing evidence of any violations of
20 the rules of the contract market.

21 “(11) FINANCIAL INTEGRITY OF CONTRACTS.—
22 The board of trade shall establish and enforce rules
23 providing for the financial integrity of any contracts
24 traded on the contract market, including rules to en-
25 sure the financial integrity of any futures commis-

1 sion merchants and introducing brokers and the pro-
2 tection of customer funds.

3 “(12) PROTECTION OF MARKET PARTICI-
4 PANTS.—The board of trade shall establish and en-
5 force rules to protect market participants from abu-
6 sive practices committed by any party acting as an
7 agent for the participants.

8 “(13) DISPUTE RESOLUTION.—The board of
9 trade shall establish and enforce rules regarding and
10 provide facilities for alternative dispute resolution as
11 appropriate for market participants and any market
12 intermediaries.

13 “(14) GOVERNANCE FITNESS STANDARDS.—
14 The board of trade shall establish and enforce ap-
15 propriate fitness standards for directors, members of
16 any disciplinary committee, members of the contract
17 market, and any other persons with direct access to
18 the facility (including any parties affiliated with any
19 of the persons described in this paragraph).

20 “(15) CONFLICTS OF INTEREST.—The board of
21 trade shall establish and enforce rules to minimize
22 conflicts of interest in the decisionmaking process of
23 the contract market and establish a process for re-
24 solving such conflicts of interest.

1 “(16) COMPOSITION OF BOARDS OF MUTUALLY
2 OWNED CONTRACT MARKETS.—In the case of a mu-
3 tually owned contract market, the board of trade
4 shall ensure that the composition of the governing
5 board reflects market participants.

6 “(17) RECORDKEEPING.—The board of trade
7 shall—

8 “(A) maintain full records of all activities
9 related to the business of the contract market
10 in a form and manner acceptable to the Com-
11 mission for a period of at least 5 years;

12 “(B) make the records readily available
13 during at least the first 2 years of the 5-year
14 period and provide the records to the Commis-
15 sion at the expense of the person required to
16 maintain the records; and

17 “(C) keep the records open to inspection
18 by any representative of the Commission or the
19 Department of Justice.

20 “(18) ANTITRUST CONSIDERATIONS.—Unless
21 necessary or appropriate to achieve the purposes of
22 this Act, the board of trade shall endeavor to
23 avoid—

1 “(A) adopting any rules or taking any ac-
2 tions that result in any unreasonable restraints
3 of trade; or

4 “(B) imposing any material anticompeti-
5 tive burden on trading on the contract market.

6 “(e) CURRENT AGRICULTURAL AND METAL COM-
7 MODITIES.—

8 “(1) Subject to paragraph (2), a contract for
9 purchase or sale for future delivery of an agricul-
10 tural or metal commodity enumerated in section
11 1a(3) that is available for trade on a contract mar-
12 ket, as of the date of the enactment of this sub-
13 section, may be traded only on a contract market
14 designated under this section.

15 “(2) In order to promote responsible economic
16 or financial innovation and fair competition, the
17 Commission, on application by any person, after no-
18 tice and public comment and opportunity for hear-
19 ing, may prescribe rules and regulations to provide
20 for the offer and sale of contracts for future delivery
21 or options thereon to be conducted on a derivatives
22 transaction execution facility.”.

1 **SEC. 111. DERIVATIVES TRANSACTION EXECUTION FACILI-**
2 **TIES.**

3 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
4 is amended by inserting after section 5 (as amended by
5 section 110(2)) the following:

6 **“SEC. 5a. DERIVATIVES TRANSACTION EXECUTION FACILI-**
7 **TIES.**

8 “(a) IN GENERAL.—In lieu of compliance with the
9 contract market designation requirements of section 5, a
10 board of trade may elect to operate as a registered deriva-
11 tives transaction execution facility if the facility is—

12 “(1) designated as a contract market and meets
13 the requirements of this section; or

14 “(2) registered as a derivatives transaction exe-
15 cution facility under subsection (c).

16 “(b) REQUIREMENTS FOR TRADING FUTURES CON-
17 TRACTS OR OTHER DERIVATIVES TRANSACTIONS.—

18 “(1) IN GENERAL.—A registered derivatives
19 transaction execution facility under subsection (a)
20 may trade any futures contract (or option on such
21 a contract) on or through the facility only by satis-
22 fying the requirements of this section.

23 “(2) REQUIREMENTS FOR UNDERLYING COM-
24 MODITIES.—A registered derivatives transaction exe-
25 cution facility may trade any futures contract only
26 if—

1 “(A) the underlying commodity has a near-
2 ly inexhaustible deliverable supply;

3 “(B) the underlying commodity has a de-
4 liverable supply that is sufficiently large that
5 the contract is highly unlikely to be susceptible
6 to the threat of manipulation;

7 “(C) the underlying commodity has no
8 cash market; or

9 “(D) the Commission determines, based on
10 the market characteristics, surveillance history,
11 self-regulatory record, and capacity of the facil-
12 ity that trading in the futures contract is highly
13 unlikely to be susceptible to the threat of ma-
14 nipulation.

15 “(3) ELIGIBLE TRADERS.—To trade on a reg-
16 istered derivatives transaction execution facility, a
17 person shall—

18 “(A) be authorized by the board of trade
19 to trade on the facility; and

20 “(B)(i) be an eligible contract participant;
21 or

22 “(ii) be a person trading through a futures
23 commission merchant that—

24 “(I) is registered with the Commis-
25 sion;

1 “(II) is a member of a futures self-
2 regulatory organization;

3 “(III) is a clearing member of a de-
4 rivatives clearing organization; and

5 “(IV) has net capital of at least
6 \$20,000,000.

7 “(4) TRADING BY CONTRACT MARKETS.—A
8 board of trade that is designated as a contract mar-
9 ket shall, to the extent that the contract market also
10 operates a registered derivatives transaction execu-
11 tion facility—

12 “(A) provide a physical location for the
13 contract market trading of the board of trade
14 that is separate from trading on the derivatives
15 transaction execution facility of the board of
16 trade; or

17 “(B) if the board of trade uses the same
18 electronic trading system for trading on the
19 contract market and derivatives transaction
20 execution facility of the board of trade, identify
21 whether the electronic trading is taking place
22 on the contract market or the derivatives trans-
23 action execution facility.

24 “(5) IMPERMISSIBLE PRODUCTS.—A security
25 future product or other future involving a security,

1 except an exempt security as defined in section
2 3(a)(12) of the Securities Exchange Act of 1934,
3 shall not trade on a designated transaction execution
4 facility.

5 “(c) CRITERIA FOR REGISTRATION.—

6 “(1) IN GENERAL.—To be registered as a reg-
7 istered derivatives transaction execution facility, the
8 board of trade shall demonstrate to the Commission
9 that the board of trade meets the criteria specified
10 in this subsection.

11 “(2) DETERRENCE OF ABUSES.—The board of
12 trade shall establish and enforce trading rules that
13 will deter abuses and has the capacity to detect, in-
14 vestigate, and enforce those rules, including means
15 to—

16 “(A) obtain information necessary to per-
17 form the functions required under this section;
18 or

19 “(B) use technological means to—

20 “(i) provide market participants with
21 impartial access to the market; and

22 “(ii) capture information that may be
23 used in establishing whether rule violations
24 have occurred.

1 “(3) TRADING PROCEDURES.—The board of
2 trade shall establish and enforce rules or terms and
3 conditions defining, or specifications detailing, trad-
4 ing procedures to be used in entering and executing
5 orders traded on the facilities of the board of trade.
6 Such rules may authorize—

7 “(A) an exchange of—

8 “(i) futures in connection with a cash
9 commodity transaction;

10 “(ii) futures for cash commodities;

11 “(iii) transfer trades or office trades;

12 or

13 “(iv) futures for swaps; and

14 “(B) a futures commission merchant, act-
15 ing as principal or agent, to enter into or con-
16 firm the execution of a contract for the pur-
17 chase or sale of a commodity for future delivery
18 if the contract is reported, recorded, or cleared
19 in accordance with the rules of the registered
20 derivatives transaction execution facility or a
21 derivatives clearing organization.

22 “(4) FINANCIAL INTEGRITY OF TRANS-
23 ACTIONS.—The board of trade shall establish and
24 enforce rules or terms and conditions providing for
25 the financial integrity of transactions entered on or

1 through the facilities of the board of trade, including
2 rules or terms and conditions to ensure the financial
3 integrity of any futures commission merchants and
4 introducing brokers and the protection of customer
5 funds.

6 “(d) CORE PRINCIPLES FOR REGISTERED DERIVA-
7 TIVES TRANSACTION EXECUTION FACILITIES.—

8 “(1) IN GENERAL.—To maintain the registra-
9 tion of a board of trade as a derivatives transaction
10 execution facility, a board of trade shall comply with
11 the core principles specified in this subsection.

12 “(2) COMPLIANCE WITH RULES.—The board of
13 trade shall monitor and enforce the rules of the fa-
14 cility, including any terms and conditions of any
15 contracts traded on or through the facility and any
16 limitations on access to the facility.

17 “(3) MONITORING OF TRADING.—The board of
18 trade shall monitor trading in the contracts of the
19 facility to ensure orderly trading in the contract and
20 to maintain an orderly market while providing any
21 necessary trading information to the Commission to
22 allow the Commission to discharge the responsibil-
23 ities of the Commission under the Act.

1 “(4) DISCLOSURE OF GENERAL INFORMA-
2 TION.—The board of trade shall disclose publicly
3 and to the Commission information concerning—

4 “(A) contract terms and conditions;

5 “(B) trading conventions, mechanisms, and
6 practices;

7 “(C) financial integrity protections; and

8 “(D) other information relevant to partici-
9 pation in trading on the facility.

10 “(5) DAILY PUBLICATION OF TRADING INFOR-
11 MATION.—The board of trade shall make public
12 daily information on settlement prices, volume, open
13 interest, and opening and closing ranges for actively
14 traded contracts on the facility.

15 “(6) FITNESS STANDARDS.—The board of trade
16 shall establish and enforce appropriate fitness stand-
17 ards for directors, members of any disciplinary com-
18 mittee, members, and any other persons with direct
19 access to the facility, including any parties affiliated
20 with any of the persons described in this paragraph.

21 “(7) CONFLICTS OF INTEREST.—The board of
22 trade shall establish and enforce rules to minimize
23 conflicts of interest in the decisionmaking process of
24 the derivatives transaction execution facility and es-

1 tablish a process for resolving such conflicts of inter-
2 est.

3 “(8) RECORDKEEPING.—The board of trade
4 shall—

5 “(A) maintain full records of all activities
6 related to the business of the derivatives trans-
7 action execution facility in a form and manner
8 acceptable to the Commission for a period of at
9 least 5 years;

10 “(B) make the records readily available
11 during at least the first 2 years of the 5-year
12 period and provide the records to the Commis-
13 sion at the expense of the person required to
14 maintain the records; and

15 “(C) keep the records open to inspection
16 by any representatives of the Commission or the
17 Department of Justice.

18 “(9) ANTITRUST CONSIDERATIONS.—Unless
19 necessary or appropriate to achieve the purposes of
20 this Act, the board of trade shall not—

21 “(A) adopt any rules or take any actions
22 that result in any unreasonable restraint of
23 trade; or

1 “(B) impose any material anticompetitive
2 burden on trading on the derivatives trans-
3 action execution facility.

4 “(e) USE OF BROKER-DEALERS, DEPOSITORY INSTI-
5 TUTIONS, AND FARM CREDIT SYSTEM INSTITUTIONS AS
6 INTERMEDIARIES.—

7 “(1) IN GENERAL.—A registered derivatives
8 transaction execution facility may by rule allow a
9 broker-dealer, depository institution, or institution of
10 the Farm Credit System that meets the require-
11 ments of paragraph (2) to—

12 “(A) act as an intermediary in trans-
13 actions executed on the facility on behalf of cus-
14 tomers of the broker-dealer, depository institu-
15 tion, or institution of the Farm Credit System;
16 and

17 “(B) receive funds of customers to serve as
18 margin or security for such transactions.

19 “(2) REQUIREMENTS.—The requirements re-
20 ferred to in paragraph (1) are that—

21 “(A) the broker-dealer be in good standing
22 with the Securities and Exchange Commission,
23 or the depository institution or institution of
24 the Farm Credit System be in good standing
25 with Federal bank regulatory agencies (includ-

1 ing the Farm Credit Administration), as appli-
2 cable; and

3 “(B) if the broker-dealer, depository insti-
4 tution, or institution of the Farm Credit Sys-
5 tem carries or holds customer accounts or funds
6 for transactions on the derivatives transaction
7 execution facility for more than 1 business day,
8 the broker-dealer, depository institution, or in-
9 stitution of the Farm Credit System is reg-
10 istered as a futures commission merchant and
11 is a member of a registered futures association.

12 “(3) IMPLEMENTATION.—The Commission shall
13 cooperate and coordinate with the Securities and Ex-
14 change Commission, the Secretary of the Treasury,
15 and Federal banking regulatory agencies (including
16 the Farm Credit Administration) in adopting rules
17 and taking any other appropriate action to facilitate
18 the implementation of this subsection.

19 “(f) SEGREGATION OF CUSTOMER FUNDS.—Not
20 later than 180 days after the effective date of the Com-
21 modity Futures Modernization Act of 2000, consistent
22 with regulations adopted by the Commission, a registered
23 derivatives transaction execution facility may authorize a
24 futures commission merchant to offer any customer of the
25 futures commission merchant that is an eligible contract

1 participant the right to not segregate the customer funds
2 of the futures commission merchant for purposes of trad-
3 ing on or through the facilities of the registered derivatives
4 transaction execution facility.

5 “(g) ELECTION TO TRADE EXCLUDED COMMOD-
6 ITIES.—

7 “(1) IN GENERAL.—A board of trade that is a
8 registered derivatives transaction execution facility
9 may trade on the facility any agreements, contracts,
10 or transactions involving excluded commodities other
11 than securities, except exempt securities as defined
12 in section 3(a)(12) of the Securities Exchange Act
13 of 1934, that are otherwise excluded from this Act
14 under section 2(c), 2(d), or 2(h).

15 “(2) EXCLUSIVE JURISDICTION OF THE COM-
16 MISSION.—The Commission shall have exclusive ju-
17 risdiction over agreements, contracts, or transactions
18 described in paragraph (1) to the extent that the
19 agreements, contracts, or transactions are traded on
20 a derivatives transaction execution facility.”.

21 **SEC. 112. DERIVATIVES CLEARING ORGANIZATIONS.**

22 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
23 is amended by inserting after section 5a (as added by sec-
24 tion 111) the following:

1 **“SEC. 5b. DERIVATIVES CLEARING ORGANIZATIONS.**

2 “(a) REGISTRATION REQUIREMENT.—Except as pro-
3 vided in subsection (b), it shall be unlawful for a deriva-
4 tives clearing organization, unless registered with the
5 Commission, directly or indirectly to make use of the mails
6 or any means or instrumentality of interstate commerce
7 to perform the functions of a derivatives clearing organiza-
8 tion described in section 1a(8).

9 “(b) EXCLUSION OF DERIVATIVES CLEARING ORGA-
10 NIZATIONS SUBJECT TO OTHER REGULATORY AUTHORI-
11 TIES.—A derivatives clearing organization shall not be re-
12 quired to register with the Commission, and the Commis-
13 sion shall have no jurisdiction with respect to the deriva-
14 tives clearing organization, if the derivatives clearing
15 organization—

16 “(1)(A) is registered as a clearing agency under
17 the Securities Exchange Act of 1934 (15 U.S.C. 78a
18 et seq.);

19 “(B) is subject to the supervisory jurisdiction of
20 a Federal banking agency (as defined in section 3 of
21 the Federal Deposit Insurance Act (12 U.S.C.
22 1813)) or the National Credit Union Administration;
23 or

24 “(C) is subject to the supervisory jurisdiction of
25 a foreign regulatory authority that is recognized by
26 the Securities and Exchange Commission, the Board

1 of Governors of the Federal Reserve System, the
2 Comptroller of the Currency, or the Commission as
3 overseeing a system of consolidated supervision com-
4 parable to that provided under applicable United
5 States law; and

6 “(2) does not clear a contract of sale for future
7 delivery, option on a contract of sale for future deliv-
8 ery, or option on a commodity that is not a security
9 (unless the contract or option is excluded under sub-
10 section (c) or (d) of section 2).

11 “(c) VOLUNTARY REGISTRATION.—A derivatives
12 clearing organization that is exempt from registration
13 under subsection (b) may register with the Commission
14 as a derivatives clearing organization.

15 “(d) REGISTRATION OF DERIVATIVES CLEARING OR-
16 GANIZATIONS.—

17 “(1) APPLICATION.—A person desiring to reg-
18 ister as a derivatives clearing organization shall sub-
19 mit to the Commission an application in such form
20 and containing such information as the Commission
21 may require for the purpose of making the deter-
22 minations required for approval under paragraph
23 (2).

24 “(2) CORE PRINCIPLES.—

1 “(A) IN GENERAL.—To be registered and
2 to maintain registration as a derivatives clear-
3 ing organization, an applicant shall demonstrate
4 to the Commission that the applicant complies
5 with the core principles specified in this para-
6 graph.

7 “(B) FINANCIAL RESOURCES.—The appli-
8 cant shall demonstrate that the applicant has
9 adequate financial, operational, and managerial
10 resources to discharge the responsibilities of a
11 derivatives clearing organization without inter-
12 ruption in various market conditions.

13 “(C) PARTICIPANT AND PRODUCT ELIGI-
14 BILITY.—The applicant shall establish—

15 “(i) appropriate admission and con-
16 tinuing eligibility standards (including ap-
17 propriate minimum financial requirements)
18 for members of and participants in the or-
19 ganization; and

20 “(ii) appropriate standards for deter-
21 mining eligibility of agreements, contracts,
22 or transactions submitted to the applicant.

23 “(D) RISK MANAGEMENT.—The applicant
24 shall have the ability to manage the risks asso-
25 ciated with discharging the responsibilities of a

1 derivatives clearing organization through the
2 use of appropriate tools and procedures.

3 “(E) SETTLEMENT PROCEDURES.—The
4 applicant shall have the ability to—

5 “(i) complete settlements on a timely
6 basis under varying circumstances;

7 “(ii) maintain an adequate record of
8 the flow of funds associated with each
9 transaction that the applicant clears; and

10 “(iii) comply with the terms and con-
11 ditions of any permitted netting or offset
12 arrangements with other clearing organiza-
13 tions.

14 “(F) TREATMENT OF FUNDS.—The appli-
15 cant shall have standards and procedures de-
16 signed to protect and ensure the safety of mem-
17 ber and participant funds.

18 “(G) DEFAULT RULES AND PROCE-
19 DURES.—The applicant shall have rules and
20 procedures designed to allow for efficient, fair,
21 and safe management of events when members
22 or participants become insolvent or otherwise
23 default on their obligations to the derivatives
24 clearing organization.

1 “(H) RULE ENFORCEMENT.—The appli-
2 cant shall—

3 “(i) maintain adequate arrangements
4 and resources for the effective monitoring
5 and enforcement of compliance with rules
6 of the applicant and for resolution of dis-
7 putes; and

8 “(ii) have the authority and ability to
9 discipline, limit, suspend, or terminate a
10 member’s or participant’s activities for vio-
11 lations of rules of the applicant.

12 “(I) SYSTEM SAFEGUARDS.—The applicant
13 shall demonstrate that the applicant—

14 “(i) has established and will maintain
15 a program of oversight and risk analysis to
16 ensure that the automated systems of the
17 applicant function properly and have ade-
18 quate capacity and security; and

19 “(ii) has established and will maintain
20 emergency procedures and a plan for dis-
21 aster recovery, and will periodically test
22 backup facilities sufficient to ensure daily
23 processing, clearing, and settlement of
24 transactions.

1 “(J) REPORTING.—The applicant shall
2 provide to the Commission all information nec-
3 essary for the Commission to conduct the over-
4 sight function of the applicant with respect to
5 the activities of the derivatives clearing organi-
6 zation.

7 “(K) RECORDKEEPING.—The applicant
8 shall—

9 “(i) maintain full records of all activi-
10 ties related to the business of the applicant
11 as a derivatives clearing organization in a
12 form and manner acceptable to the Com-
13 mission for a period of at least 5 years;

14 “(ii) make the records readily avail-
15 able during at least the first 2 years of the
16 5-year period and provide the records to
17 the Commission at the expense of the per-
18 son required to maintain the records; and

19 “(iii) keep the records open to inspec-
20 tion by any representative of the Commis-
21 sion or the Department of Justice.

22 “(L) PUBLIC INFORMATION.—The appli-
23 cant shall make information concerning the
24 rules and operating procedures governing the
25 clearing and settlement systems (including de-

1 fault procedures) available to market partici-
2 pants.

3 “(M) INFORMATION SHARING.—The appli-
4 cant shall—

5 “(i) enter into and abide by the terms
6 of all appropriate and applicable domestic
7 and international information-sharing
8 agreements; and

9 “(ii) use relevant information obtained
10 from the agreements in carrying out the
11 clearing organization’s risk management
12 program.

13 “(N) ANTITRUST CONSIDERATIONS.—Un-
14 less necessary or appropriate to achieve the
15 purposes of this Act, the derivatives clearing or-
16 ganization shall not—

17 “(i) adopt any rule or take any action
18 that results in any unreasonable restraint
19 of trade; or

20 “(ii) impose any material anticompeti-
21 tive burden on trading on the contract
22 market.

23 “(3) ORDERS CONCERNING COMPETITION.—A
24 derivatives clearing organization may request the
25 Commission to issue an order concerning whether a

1 rule or practice of the applicant is the least anti-
2 competitive means of achieving the objectives, pur-
3 poses, and policies of this Act.

4 “(e) EXISTING DERIVATIVES CLEARING ORGANIZA-
5 TIONS.—A derivatives clearing organization shall be
6 deemed to be registered under this section to the extent
7 that—

8 “(1) the derivatives clearing organization clears
9 agreements, contracts, or transactions for a board of
10 trade that has been designated by the Commission
11 as a contract market for such agreements, contracts,
12 or transactions before the date of enactment of this
13 section; and

14 “(2) the Commission has reviewed and ap-
15 proved the rules of the derivatives clearing organiza-
16 tion before that date.

17 “(f) APPOINTMENT OF TRUSTEE.—

18 “(1) IN GENERAL.—If a proceeding under sec-
19 tion 5e results in the suspension or revocation of the
20 registration of a derivatives clearing organization, or
21 if a derivatives clearing organization withdraws from
22 registration, the Commission, on notice to the de-
23 rivatives clearing organization, may apply to the ap-
24 propriate United States district court where the de-

1 derivatives clearing organization is located for the ap-
2 pointment of a trustee.

3 “(2) ASSUMPTION OF JURISDICTION.—If the
4 Commission applies for appointment of a trustee
5 under paragraph (1)—

6 “(A) the court may take exclusive jurisdic-
7 tion over the derivatives clearing organization
8 and the records and assets of the derivatives
9 clearing organization, wherever located; and

10 “(B) if the court takes jurisdiction under
11 subparagraph (A), the court shall appoint the
12 Commission, or a person designated by the
13 Commission, as trustee with power to take pos-
14 session and continue to operate or terminate
15 the operations of the derivatives clearing orga-
16 nization in an orderly manner for the protection
17 of participants, subject to such terms and con-
18 ditions as the court may prescribe.

19 “(g) LINKING OF REGULATED CLEARING FACILI-
20 TIES.—

21 “(1) IN GENERAL.—The Commission shall fa-
22 cilitate the linking or coordination of derivatives
23 clearing organizations registered under this Act with
24 other regulated clearance facilities for the coordi-
25 nated settlement of cleared transactions.

1 “(2) COORDINATION.—In carrying out para-
2 graph (1), the Commission shall coordinate with the
3 Federal banking agencies and the Securities and Ex-
4 change Commission.”.

5 **SEC. 113. COMMON PROVISIONS APPLICABLE TO REG-**
6 **ISTERED ENTITIES.**

7 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
8 is amended by inserting after section 5b (as added by sec-
9 tion 112) the following:

10 **“SEC. 5c. COMMON PROVISIONS APPLICABLE TO REG-**
11 **ISTERED ENTITIES.**

12 “(a) ACCEPTABLE BUSINESS PRACTICES UNDER
13 CORE PRINCIPLES.—

14 “(1) IN GENERAL.—Consistent with the pur-
15 poses of this Act, the Commission may issue inter-
16 pretations, or approve interpretations submitted to
17 the Commission, of sections 5(d), 5a(d), and
18 5b(d)(2) to describe what would constitute an ac-
19 ceptable business practice under such sections.

20 “(2) EFFECT OF INTERPRETATION.—An inter-
21 pretation issued under paragraph (1) shall not pro-
22 vide the exclusive means for complying with such
23 sections.

24 “(b) DELEGATION OF FUNCTIONS UNDER CORE
25 PRINCIPLES.—

1 “(1) IN GENERAL.—A contract market or de-
2 rivatives transaction execution facility may comply
3 with any applicable core principle through delegation
4 of any relevant function to a registered futures asso-
5 ciation or another registered entity.

6 “(2) RESPONSIBILITY.—A contract market or
7 derivatives transaction execution facility that dele-
8 gates a function under paragraph (1) shall remain
9 responsible for carrying out the function.

10 “(c) NEW CONTRACTS, NEW RULES, AND RULE
11 AMENDMENTS.—

12 “(1) IN GENERAL.—Subject to paragraph (2), a
13 registered entity may elect to list for trading any
14 new contract or other instrument, or may elect to
15 approve and implement any new rule or rule amend-
16 ment, by providing to the Commission (and the Sec-
17 retary of the Treasury, in the case of a contract of
18 sale for future delivery of a government security (or
19 option thereon) or a rule or rule amendment specifi-
20 cally related to such a contract) a written certifi-
21 cation that the new contract, new rule, or rule
22 amendment complies with this Act (including regula-
23 tions under this Act).

24 “(2) PRIOR APPROVAL.—

1 “(A) IN GENERAL.—A registered entity
2 may request that the Commission grant prior
3 approval to any new contract or other instru-
4 ment, new rule, or rule amendment.

5 “(B) PRIOR APPROVAL REQUIRED.—Not-
6 withstanding any other provision of this section,
7 a designated contract market shall submit to
8 the Commission for prior approval each rule
9 amendment that materially changes the terms
10 and conditions, as determined by the Commis-
11 sion, in any contract of sale for future delivery
12 of a commodity specifically enumerated in sec-
13 tion 1a(3) of this Act (or any option thereon)
14 traded through its facilities if such rule amend-
15 ment applies to contracts and delivery months
16 which have already been listed for trading and
17 have open interest.

18 “(C) DEADLINE.—If prior approval is re-
19 quested under subparagraph (A), the Commis-
20 sion shall take final action on the request not
21 later than 90 days after submission of the re-
22 quest, unless the person submitting the request
23 agrees to an extension of the time limitation es-
24 tablished under this subparagraph.

1 “(3) APPROVAL.—The Commission shall ap-
2 prove any such new contract or instrument, new
3 rule, or rule amendment unless the Commission
4 finds that the new contract or instrument, new rule,
5 or rule amendment would violate this Act.

6 “(d) RESERVATION OF EMERGENCY AUTHORITY.—
7 Nothing in this section shall limit or in any way affect
8 the emergency powers of the Commission provided in sec-
9 tion 8a(9) of this Act.”.

10 **SEC. 114. EXEMPT BOARDS OF TRADE.**

11 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
12 is amended by inserting after section 5c (as added by sec-
13 tion 113) the following:

14 **“SEC. 5d. EXEMPT BOARDS OF TRADE.**

15 “(a) IN GENERAL.—Except as otherwise provided in
16 this section, a contract of sale (or option on such a con-
17 tract) of a commodity for future delivery traded on or
18 through the facilities of an exempt board of trade shall
19 be exempt from all provisions of this Act, other than sec-
20 tion 2(g).

21 “(b) CRITERIA FOR EXEMPTION.—To qualify for an
22 exemption under subsection (a), a board of trade shall
23 limit trading on or through the facilities of the board of
24 trade to contracts of sale of a commodity for future deliv-
25 ery (or options on such contracts)—

1 “(1) that have—

2 “(A) a nearly inexhaustible deliverable sup-
3 ply;

4 “(B) a deliverable supply that is suffi-
5 ciently large, and a cash market sufficiently liq-
6 uid, to render any contract traded on the com-
7 modity highly unlikely to be susceptible to the
8 threat of manipulation; or

9 “(C) no cash market;

10 “(2) that are entered into only between persons
11 that are eligible contract participants at the time at
12 which the persons enter into the contract;

13 “(3) that are not contracts of sale (or options
14 on the contract) for future delivery of any security,
15 including any group or index of securities or any in-
16 terest in, or interest that is based on the value of,
17 any security; and

18 “(4) that are not security future products.

19 “(c) ANTIMANIPULATION REQUIREMENTS.—A party
20 to a futures contract or related option that is traded on
21 an exempt board of trade shall be subject to sections 4b,
22 4o, 6(c), and 9(a)(2), and the Commission shall enforce
23 those provisions with respect to any such trading.

24 “(d) PRICE DISCOVERY.—If the Commission finds
25 that an exempt board of trade is a significant source of

1 price discovery for any underlying commodity in any
2 transaction traded on or through the facilities of the board
3 of trade, the board of trade shall disseminate publicly on
4 a daily basis trading volume, opening and closing price
5 ranges, open interest, and other trading data as appro-
6 priate to the market.

7 “(e) JURISDICTION.—The Commission shall have ex-
8 clusive jurisdiction over any account, agreement, or trans-
9 action involving a contract of sale of a commodity other
10 than a security for future delivery, or related option, to
11 the extent that such account, agreement, or transaction
12 is traded on an exempt board of trade.

13 “(f) SUBSIDIARIES.—A board of trade that is des-
14 ignated as a contract market or registered as a derivatives
15 transaction execution facility may operate an exempt
16 board of trade by establishing a separate subsidiary or
17 other legal entity and otherwise satisfying the require-
18 ments of this section.”.

19 **SEC. 115. SUSPENSION OR REVOCATION OF DESIGNATION**
20 **AS CONTRACT MARKET.**

21 Section 5e of the Commodity Exchange Act (7 U.S.C.
22 7b) (as redesignated by section 110(1)) is amended to
23 read as follows:

1 **“SEC. 5e. SUSPENSION OR REVOCATION OF DESIGNATION**
2 **AS REGISTERED ENTITY.**

3 “The failure of a registered entity to comply with any
4 provision of this Act, or any regulation or order of the
5 Commission under this Act, shall be cause for the suspen-
6 sion of the registered entity for a period not to exceed 180
7 days, or revocation of designation as a registered entity
8 in accordance with the procedures and subject to the judi-
9 cial review provided in section 6(b).”.

10 **SEC. 116. AUTHORIZATION OF APPROPRIATIONS.**

11 Section 12(d) of the Commodity Exchange Act (7
12 U.S.C. 16(d)) is amended by striking “2000” and insert-
13 ing “2005”.

14 **SEC. 117. PREEMPTION.**

15 Section 12(e) of the Commodity Exchange Act (7
16 U.S.C. 16(e)) is amended by striking paragraph (2) and
17 inserting the following:

18 “(2) the application of any Federal or State law
19 (including any regulation) to an agreement, contract,
20 or transaction in or involving any commodity, prod-
21 uct, right, service, or interest, except that this Act
22 shall supersede and preempt—

23 “(A) in the case of any such agreement,
24 contract, or transaction—

1 “(i) that is conducted on or subject to
2 the rules of a registered entity or exempt
3 board of trade;

4 “(ii) that is conducted on or subject
5 to the rules of any board of trade, ex-
6 change, or market located outside the
7 United States, or any territory or posses-
8 sion of the United States (in accordance
9 with any terms or conditions specified by
10 the Commission by regulation); and

11 “(iii) that is subject to regulation by
12 the Commission under section 4c or 19;
13 and

14 “(B) any State or local law that prohibits
15 or regulates gaming or the operation of bucket
16 shops (other than antifraud provisions of gen-
17 eral applicability) in the case of—

18 “(i) an electronic trading facility
19 under section 2(e); or

20 “(ii) an agreement, contract, or trans-
21 action that is excluded or exempt under
22 section 2(c), 2(d), 2(f), or 2(h) or is cov-
23 ered by the terms of an exemption granted
24 by the Commission under section 4(c) (re-
25 gardless of whether any such agreement,

1 contract, or transaction is otherwise sub-
2 ject to this Act); or”.

3 **SEC. 118. PREDISPUTE RESOLUTION AGREEMENTS FOR IN-**
4 **STITUTIONAL CUSTOMERS.**

5 Section 14 of the Commodity Exchange Act (7 U.S.C.
6 18) is amended by striking subsection (g) and inserting
7 the following:

8 “(g) PREDISPUTE RESOLUTION AGREEMENTS FOR
9 INSTITUTIONAL CUSTOMERS.—Nothing in this section
10 prohibits a registered futures commission merchant from
11 requiring a customer that is an eligible contract partici-
12 pant, as a condition to the commission merchant’s con-
13 ducting a transaction for the customer, to enter into an
14 agreement waiving the right to file a claim under this sec-
15 tion.”.

16 **SEC. 119. CONSIDERATION OF COSTS AND BENEFITS AND**
17 **ANTITRUST LAWS.**

18 Section 15 of the Commodity Exchange Act (7 U.S.C.
19 19) is amended by striking “SEC. 15. The Commission”
20 and inserting the following:

21 **“SEC. 15. CONSIDERATION OF COSTS AND BENEFITS AND**
22 **ANTITRUST LAWS.**

23 “(a) COSTS AND BENEFITS.—

24 “(1) IN GENERAL.—Before promulgating a reg-
25 ulation under this Act or issuing an order (except as

1 provided in paragraph (3)), the Commission shall
2 consider the costs and benefits of the action of the
3 Commission.

4 “(2) CONSIDERATIONS.—The costs and benefits
5 of the proposed Commission action shall be evalu-
6 ated in light of—

7 “(A) considerations of protection of market
8 participants and the public;

9 “(B) considerations of the efficiency, com-
10 petitiveness, and financial integrity of futures
11 markets;

12 “(C) considerations of price discovery;

13 “(D) considerations of sound risk manage-
14 ment practices; and

15 “(E) other public interest considerations.

16 “(3) APPLICABILITY.—This subsection does not
17 apply to the following actions of the Commission:

18 “(A) An order that initiates, is part of, or
19 is the result of an adjudicatory or investigative
20 process of the Commission.

21 “(B) An emergency action.

22 “(C) A finding of fact regarding compli-
23 ance with a requirement of the Commission.

24 “(b) ANTITRUST LAWS.—The Commission”.

1 **SEC. 120. CONTRACT ENFORCEMENT BETWEEN ELIGIBLE**
2 **COUNTERPARTIES.**

3 Section 22(a) of the Commodity Exchange Act (7
4 U.S.C. 25(a)) is amended by adding at the end the fol-
5 lowing:

6 “(4) CONTRACT ENFORCEMENT BETWEEN ELIGIBLE
7 COUNTERPARTIES.—No agreement, contract, or trans-
8 action between eligible contract participants shall be void,
9 voidable, or unenforceable, and no such eligible contract
10 participant shall be entitled to rescind, or recover any pay-
11 ment made with respect to, such an agreement, contract,
12 or transaction, under this section based solely on the fail-
13 ure of the agreement, contract, or transaction to comply
14 with the terms or conditions of an exemption or exclusion
15 from any provision of this Act or regulations of the Com-
16 mission.”.

17 **SEC. 121. SPECIAL PROCEDURES TO ENCOURAGE AND FA-**
18 **CILITATE BONA FIDE HEDGING BY AGRICUL-**
19 **TURAL PRODUCERS.**

20 The Commodity Exchange Act is amended by insert-
21 ing after section 4p the following:

22 **“SEC. 4q. SPECIAL PROCEDURES TO ENCOURAGE AND FA-**
23 **CILITATE BONA FIDE HEDGING BY AGRICUL-**
24 **TURAL PRODUCERS.**

25 “(a) AUTHORITY.—The Commission shall consider
26 issuing rules or orders which—

1 “(1) prescribe procedures under which each
2 contract market is to provide for orderly delivery, in-
3 cluding temporary storage costs, of any agricultural
4 commodity enumerated in section 1a(3) which is the
5 subject of a contract for purchase or sale for future
6 delivery;

7 “(2) increase the ease with which domestic agri-
8 cultural producers may participate in contract mar-
9 kets, including by addressing cost and margin re-
10 quirements, so as to better enable such producers to
11 hedge price risk associated with their production;

12 “(3) provide flexibility in the minimum quan-
13 tities of such agricultural commodities that may be
14 the subject of a contract for purchase or sale for fu-
15 ture delivery that is traded on a contract market, to
16 better allow domestic agricultural producers to hedge
17 such price risk; and

18 “(4) encourage exchanges to provide informa-
19 tion and otherwise facilitate the participation of do-
20 mestic agricultural producers in contract markets.

21 “(b) REPORT.—Within 1 year after the date of enact-
22 ment of this section, the Commission shall submit to the
23 Committee on Agriculture of the House of Representatives
24 and the Committee on Agriculture, Nutrition, and For-
25 estry of the Senate a report on the steps it has taken to

1 implement this section and on the activities of contract
2 markets pursuant to this section.”.

3 **SEC. 122. RULE OF CONSTRUCTION.**

4 Except as expressly provided in this title or an
5 amendment made by this title, nothing in this title or an
6 amendment made by this title supersedes, affects, or oth-
7 erwise limits or expands the scope and applicability of laws
8 governing the Securities and Exchange Commission.

9 **SEC. 123. TECHNICAL AND CONFORMING AMENDMENTS.**

10 (a) COMMODITY EXCHANGE ACT.—

11 (1) Section 1a of the Commodity Exchange Act
12 (7 U.S.C. 1a) is amended—

13 (A) in paragraphs (4), (5), (8), (9), (12),
14 and (14), by inserting “or derivatives trans-
15 action execution facility” after “contract mar-
16 ket” each place it appears; and

17 (B) in paragraph (15)—

18 (i) in the paragraph heading, by strik-
19 ing “CONTRACT MARKET” and inserting
20 “REGISTERED ENTITY”; and

21 (ii) by striking “contract market”
22 each place it appears and inserting “reg-
23 istered entity”.

24 (2) Section 2 of the Commodity Exchange Act
25 (7 U.S.C. 2, 2a, 4, 4a, 3) is amended—

1 (A) by striking “SEC. 2. (a)(1)(A)(i) The”
2 and inserting the following:

3 **“SEC. 2. JURISDICTION OF COMMISSION; LIABILITY OF**
4 **PRINCIPAL FOR ACT OF AGENT; COMMODITY**
5 **FUTURES TRADING COMMISSION; TRANS-**
6 **ACTION IN INTERSTATE COMMERCE.**

7 “(a) JURISDICTION OF COMMISSION; COMMODITY
8 FUTURES TRADING COMMISSION.—

9 “(1) JURISDICTION OF COMMISSION.—

10 “(A) IN GENERAL.—The”;

11 (B) in subsection (a)(1)(A) (as amended
12 by subparagraph (A) of this paragraph)—

13 (i) by striking “subparagraph (B) of
14 this paragraph” and inserting “subpara-
15 graph (C) or (D) of this paragraph”;

16 (ii) by striking “contract market des-
17 ignated pursuant to section 5 of this Act”
18 and inserting “contract market designated
19 or derivatives transaction execution facility
20 registered pursuant to section 5 or 5a”;

21 (iii) by striking clause (ii); and

22 (iv) in clause (iii), by striking “(iii)
23 The” and inserting the following:

24 “(B) LIABILITY OF PRINCIPAL FOR ACT OF
25 AGENT.—The”; and

1 (C) in subsection (a)(1)(B)—

2 (i) by striking “(B)” and inserting
3 “(C)”;

4 (ii) in clause (iv), by striking “(I)”
5 and all that follows through “(II)”;

6 (iii) in clause (v), by inserting “or
7 subparagraph (D)” after “subparagraph”;
8 and

9 (iv) by moving clauses (i) through (v)
10 4 ems to the right;

11 (D) in subsection (a)(7), by striking “con-
12 tract market” and inserting “registered entity”;

13 (E) in subsection (a)(8)(B)(ii)—

14 (i) in the first sentence, by striking
15 “designation as a contract market” and in-
16 serting “designation or registration as a
17 contract market or derivatives transaction
18 execution facility”;

19 (ii) in the second sentence, by striking
20 “designate a board of trade as a contract
21 market” and inserting “designate or reg-
22 ister a board of trade as a contract market
23 or derivatives transaction execution facil-
24 ity”; and

1 (iii) in the fourth sentence, by striking
2 “designating, or refusing, suspending, or
3 revoking the designation of, a board of
4 trade as a contract market involving trans-
5 actions for future delivery referred to in
6 this clause or in considering possible emer-
7 gency action under section 8a(9) of this
8 Act” and inserting “designating, reg-
9 istering, or refusing, suspending, or revok-
10 ing the designation or registration of, a
11 board of trade as a contract market or de-
12 rivatives transaction execution facility in-
13 volving transactions for future delivery re-
14 ferred to in this clause or in considering
15 any possible action under this Act (includ-
16 ing without limitation emergency action
17 under section 8a(9))”, and by striking
18 “designation, suspension, revocation, or
19 emergency action” and inserting “designa-
20 tion, registration, suspension, revocation,
21 or action”; and

22 (F) in subsection (a), by moving para-
23 graphs (2) through (9) 2 ems to the right.

24 (3) Section 4 of the Commodity Exchange Act
25 (7 U.S.C. 6) is amended—

1 (A) in subsection (a)—

2 (i) in paragraph (1), by striking “des-
3 ignated by the Commission as a ‘contract
4 market’ for” and inserting “designated or
5 registered by the Commission as a contract
6 market or derivatives transaction execution
7 facility for”;

8 (ii) in paragraph (2), by striking
9 “member of such”; and

10 (iii) in paragraph (3), by inserting “or
11 derivatives transaction execution facility”
12 after “contract market”; and

13 (B) in subsection (c)—

14 (i) in paragraph (1)—

15 (I) by striking “designated as a
16 contract market” and inserting “des-
17 ignated or registered as a contract
18 market or derivatives transaction exe-
19 cution facility”; and

20 (II) by striking “section
21 2(a)(1)(B)” and inserting “section
22 2(g)”; and

23 (ii) in paragraph (2)(B)(ii), by insert-
24 ing “or derivatives transaction execution
25 facility” after “contract market”.

1 (4) Section 4a of the Commodity Exchange Act
2 (7 U.S.C. 6a) is amended—

3 (A) in subsection (a)—

4 (i) in the first sentence, by inserting
5 “or derivatives transaction execution facili-
6 ties” after “contract markets”; and

7 (ii) in the second sentence, by insert-
8 ing “or derivatives transaction execution
9 facility” after “contract market”;

10 (B) in subsection (b)—

11 (i) in paragraph (1), by inserting “, or
12 derivatives transaction execution facility or
13 facilities,” after “markets”; and

14 (ii) in paragraph (2), by inserting “or
15 derivatives transaction execution facility”
16 after “contract market”; and

17 (C) in subsection (e)—

18 (i) by striking “contract market or”
19 each place it appears and inserting “con-
20 tract market, derivatives transaction execu-
21 tion facility, or”;

22 (ii) by striking “licensed or des-
23 ignated” each place it appears and insert-
24 ing “licensed, designated, or registered”;
25 and

1 (iii) by striking “contract market, or”
2 and inserting “contract market or deriva-
3 tives transaction execution facility, or”.

4 (5) Section 4b(a) of the Commodity Exchange
5 Act (7 U.S.C. 6b(a)) is amended by striking “con-
6 tract market” each place it appears and inserting
7 “registered entity”.

8 (6) Sections 4c(g), 4d, 4e, and 4f of the Com-
9modity Exchange Act (7 U.S.C. 6c(g), 6d, 6e, 6f)
10 are amended by inserting “or derivatives transaction
11 execution facility” after “contract market” each
12 place it appears.

13 (7) Section 4g of the Commodity Exchange Act
14 (7 U.S.C. 6g) is amended—

15 (A) in subsection (b), by striking “clear-
16 inghouse and contract market” and inserting
17 “registered entity”; and

18 (B) in subsection (f), by striking “clearing-
19 houses, contract markets, and exchanges” and
20 inserting “registered entities”.

21 (8) Section 4h of the Commodity Exchange Act
22 (7 U.S.C. 6h) is amended by striking “contract mar-
23 ket” each place it appears and inserting “registered
24 entity”.

1 (9) Section 4i of the Commodity Exchange Act
2 (7 U.S.C. 6i) is amended in the first sentence by in-
3 serting “or derivatives transaction execution facility”
4 after “contract market”.

5 (10) Section 4j(a) of the Commodity Exchange
6 Act (7 U.S.C. 6j(a)) is amended—

7 (A) in paragraph (1), by inserting “for se-
8 curity future products” after “contract mar-
9 ket”; and

10 (B) in paragraph (3), by inserting “, other
11 than a designated contract market in a security
12 future product,” after “exempt a contract mar-
13 ket”.

14 (11) Section 4l of the Commodity Exchange Act
15 (7 U.S.C. 6l) is amended by inserting “or derivatives
16 transaction execution facilities” after “contract mar-
17 kets” each place it appears.

18 (12) Section 4p of the Commodity Exchange
19 Act (7 U.S.C. 6p) is amended—

20 (A) in the third sentence of subsection (a),
21 by striking “Act or contract markets” and in-
22 serting “Act, contract markets, or derivatives
23 transaction execution facilities”; and

1 (B) in subsection (b), by inserting “deriva-
2 tives transaction execution facility,” after “con-
3 tract market,”.

4 (13) Section 6 of the Commodity Exchange Act
5 (7 U.S.C. 8, 9, 9a, 9b, 13b, 15) is amended—

6 (A) in subsection (a)—

7 (i) in the first sentence—

8 (I) by striking “board of trade
9 desiring to be designated a ‘contract
10 market’ shall make application to the
11 Commission for such designation” and
12 inserting “person desiring to be des-
13 ignated or registered as a contract
14 market or derivatives transaction exe-
15 cution facility shall make application
16 to the Commission for such designa-
17 tion or registration”;

18 (II) by striking “above condi-
19 tions” and inserting “conditions set
20 forth in this Act”; and

21 (III) by striking “above require-
22 ments” and inserting “the require-
23 ments of this Act”;

24 (ii) in the second sentence, by striking
25 “designation as a contract market within

1 one year” and inserting “designation or
2 registration as a contract market or de-
3 rivatives transaction execution facility
4 within 180 days”;

5 (iii) in the third sentence—

6 (I) by striking “board of trade”
7 and inserting “person”; and

8 (II) by striking “one-year period”
9 and inserting “180-day period”; and

10 (iv) in the last sentence, by striking
11 “designate as a ‘contract market’ any
12 board of trade that has made application
13 therefor, such board of trade” and insert-
14 ing “designate or register as a contract
15 market or derivatives transaction execution
16 facility any person that has made applica-
17 tion therefor, such person”;

18 (B) in subsection (b)—

19 (i) in the first sentence—

20 (I) by striking “designation of
21 any board of trade as a ‘contract mar-
22 ket’ upon” and inserting “designation
23 or registration of any contract market
24 or derivatives transaction execution
25 facility on”;

1 (II) by striking “board of trade”
2 each place it appears and inserting
3 “contract market or derivatives trans-
4 action execution facility”; and

5 (III) by striking “designation as
6 set forth in section 5 of this Act” and
7 inserting “designation or registration
8 as set forth in sections 5 through 5b”;
9 (ii) in the second sentence—

10 (I) by striking “board of trade”
11 the first place it appears and inserting
12 “contract market or derivatives trans-
13 action execution facility”; and

14 (II) by striking “board of trade”
15 the second and third places it appears
16 and inserting “person”; and

17 (iii) in the last sentence, by striking
18 “board of trade” each place it appears and
19 inserting “person”;

20 (C) in subsection (c)—

21 (i) by striking “contract market” each
22 place it appears and inserting “registered
23 entity”;

1 (ii) by striking “contract markets”
2 each place it appears and inserting “reg-
3 istered entities”; and

4 (iii) by striking “trading privileges”
5 each place it appears and inserting “privi-
6 leges”;

7 (D) in subsection (d), by striking “contract
8 market” each place it appears and inserting
9 “registered entity”; and

10 (E) in subsection (e), by striking “trading
11 on all contract markets” each place it appears
12 and inserting “the privileges of all registered
13 entities”.

14 (14) Section 6a of the Commodity Exchange
15 Act (7 U.S.C. 10a) is amended—

16 (A) in the first sentence of subsection (a),
17 by striking “designated as a ‘contract market’
18 shall” and inserting “designated or registered
19 as a contract market or a derivatives trans-
20 action execution facility”; and

21 (B) in subsection (b), by striking “des-
22 ignated as a contract market” and inserting
23 “designated or registered as a contract market
24 or a derivatives transaction execution facility”.

1 (15) Section 6b of the Commodity Exchange
2 Act (7 U.S.C. 13a) is amended—

3 (A) by striking “contract market” each
4 place it appears and inserting “registered enti-
5 ty”;

6 (B) in the first sentence, by striking “des-
7 ignation as set forth in section 5 of this Act”
8 and inserting “designation or registration as set
9 forth in sections 5 through 5c”; and

10 (C) in the last sentence, by striking “the
11 contract market’s ability” and inserting “the
12 ability of the registered entity”.

13 (16) Section 6c(a) of the Commodity Exchange
14 Act (7 U.S.C. 13a–1(a)) by striking “contract mar-
15 ket” and inserting “registered entity”.

16 (17) Section 6d(1) of the Commodity Exchange
17 Act (7 U.S.C. 13a–2(1)) is amended by inserting
18 “derivatives transaction execution facility,” after
19 “contract market,”.

20 (18) Section 7 of the Commodity Exchange Act
21 (7 U.S.C. 11) is amended—

22 (A) in the first sentence—

23 (i) by striking “board of trade” and
24 inserting “person”;

1 (ii) by inserting “or registered” after
2 “designated”;

3 (iii) by inserting “or registration”
4 after “designation” each place it appears;
5 and

6 (iv) by striking “contract market”
7 each place it appears and inserting “reg-
8 istered entity”;

9 (B) in the second sentence—

10 (i) by striking “designation of such
11 board of trade as a contract market” and
12 inserting “designation or registration of
13 the registered entity”; and

14 (ii) by striking “contract markets”
15 and inserting “registered entities”; and

16 (C) in the last sentence—

17 (i) by striking “board of trade” and
18 inserting “person”; and

19 (ii) by striking “designated again a
20 contract market” and inserting “des-
21 ignated or registered again a registered en-
22 tity”.

23 (19) Section 8(c) of the Commodity Exchange
24 Act (7 U.S.C. 12(c)) is amended in the first sen-

1 tence by striking “board of trade” and inserting
2 “registered entity”.

3 (20) Section 8a of the Commodity Exchange
4 Act (7 U.S.C. 12a) is amended—

5 (A) by striking “contract market” each
6 place it appears and inserting “registered enti-
7 ty”; and

8 (B) in paragraph (2)(F), by striking “trad-
9 ing privileges” and inserting “privileges”.

10 (21) Sections 8b and 8c(e) of the Commodity
11 Exchange Act (7 U.S.C. 12b, 12c(e)) are amended
12 by striking “contract market” each place it appears
13 and inserting “registered entity”.

14 (22) Section 8e of the Commodity Exchange
15 Act (7 U.S.C. 12e) is amended—

16 (A) by striking “contract market” each
17 place it appears and inserting “registered enti-
18 ty”;

19 (B) in subsection (a), by striking “section
20 5a(b)” and inserting “sections 5 through 5c”;

21 (C) in subsection (b)—

22 (i) in paragraph (1), by striking “con-
23 tract market’s trade monitoring system im-
24 plemented pursuant to section 5a(b)” and
25 inserting “the trade monitoring system of

1 a registered entity implemented pursuant
2 to sections 5 through 5c”;

3 (ii) by striking paragraph (3) and in-
4 serting the following:

5 “(3) REMEDIES.—On becoming final, the Com-
6 mission deficiency order may require the registered
7 entity to—

8 “(A) institute appropriate improvements in
9 its trade monitoring system necessary to correct
10 the deficiencies in the order;

11 “(B) satisfy stated objective performance
12 criteria to correct the deficiencies;

13 “(C) upgrade or reconfigure existing sys-
14 tems for collecting or processing relevant data
15 on trading and trader or broker activity, includ-
16 ing, where appropriate, the commitment of ad-
17 ditional resources.”; and

18 (iii) in paragraph (5)—

19 (I) in the paragraph heading, by
20 striking “DESIGNATION AS CONTRACT
21 MARKET” and inserting “DESIGNA-
22 TION OR REGISTRATION AS REG-
23 ISTERED ENTITY”;

24 (II) by inserting “or registra-
25 tion” after “designation”; and

1 (III) by striking “board of trade”
2 and inserting “person”;

3 (D) in subsection (d)(2), by striking “sec-
4 tion 5b” and inserting “section 5e”; and

5 (E) in the paragraph heading of subsection
6 (e)(2), by striking “CONTRACT MARKETS” and
7 inserting “REGISTERED ENTITIES”.

8 (23) Section 9 of the Commodity Exchange Act
9 (7 U.S.C. 13) is amended by striking “contract mar-
10 ket” each place it appears and inserting “registered
11 entity”.

12 (24) Section 14 of the Commodity Exchange
13 Act (7 U.S.C. 18) is amended—

14 (A) in subsection (a)(1)(B), by striking
15 “contract market” and inserting “registered en-
16 tity”; and

17 (B) in subsection (f), by striking “contract
18 markets” and inserting “registered entities”.

19 (25) Section 17 of the Commodity Exchange
20 Act (7 U.S.C. 21) is amended by striking “contract
21 market” each place it appears and inserting “reg-
22 istered entity”.

23 (26) Section 22 of the Commodity Exchange
24 Act (7 U.S.C. 25) is amended—

25 (A) in subsection (a)—

1 (i) in paragraph (1)—

2 (I) by striking “contract market,
3 clearing organization of a contract
4 market, licensed board of trade,” and
5 inserting “registered entity”; and

6 (II) in subparagraph (C)(i), by
7 striking “contract market” and insert-
8 ing “registered entity”;

9 (ii) in paragraph (2), by striking “sec-
10 tions 5a(11),” and inserting “sections
11 5(d)(13), 5b(b)(1)(E),”; and

12 (iii) in paragraph (3), by striking
13 “contract market” and inserting “reg-
14 istered entity”; and

15 (B) in subsection (b)—

16 (i) in paragraph (1)—

17 (I) by striking “contract market
18 or clearing organization of a contract
19 market” and inserting “registered en-
20 tity”;

21 (II) by striking “section 5a(8)
22 and section 5a(9) of this Act” and in-
23 serting “sections 5 through 5c”;

24 (III) by striking “contract mar-
25 ket, clearing organization of a con-

1 tract market, or licensed board of
2 trade” and inserting “registered enti-
3 ty”; and

4 (IV) by striking “contract market
5 or licensed board of trade” and insert-
6 ing “registered entity”;

7 (ii) in paragraph (3)—

8 (I) by striking “a contract mar-
9 ket, clearing organization, licensed
10 board of trade,” and inserting “reg-
11 istered entity”; and

12 (II) by striking “contract market,
13 licensed board of trade” and inserting
14 “registered entity”;

15 (iii) in paragraph (4), by striking
16 “contract market, licensed board of trade,
17 clearing organization,” and inserting “reg-
18 istered entity”; and

19 (iv) in paragraph (5), by striking
20 “contract market, licensed board of trade,
21 clearing organization,” and inserting “reg-
22 istered entity”.

23 (b) FEDERAL DEPOSIT INSURANCE CORPORATION
24 IMPROVEMENT ACT OF 1991.—Section 402(2) of the Fed-
25 eral Deposit Insurance Corporation Improvement Act of

1 1991 (12 U.S.C. 4402(2)) is amended by striking sub-
2 paragraph (B) and inserting the following:

3 “(B) that is registered as a derivatives
4 clearing organization under section 5b of the
5 Commodity Exchange Act.”.

6 **SEC. 124. REPORT TO CONGRESS.**

7 (a) The Commodity Futures Trading Commission (in
8 this section referred to as the “Commission”) shall under-
9 take and complete a study of the Commodity Exchange
10 Act (in this section referred to as “the Act”) and the Com-
11 mission’s rules, regulations and orders governing the con-
12 duct of persons required to be registered under the Act,
13 not later than 1 year after the date of the enactment of
14 this Act. The study shall identify—

15 (1) the core principles and interpretations of ac-
16 ceptable business practices that the Commission has
17 adopted or intends to adopt to replace the provisions
18 of the Act and the Commission’s rules and regula-
19 tions thereunder;

20 (2) the rules and regulations that the Commis-
21 sion has determined must be retained and the rea-
22 sons therefor;

23 (3) the extent to which the Commission believes
24 it can effect the changes identified in paragraph (1)

1 of this subsection through its exemptive authority
2 under section 4(c) of the Act; and

3 (4) the regulatory functions the Commission
4 currently performs that can be delegated to a reg-
5 istered futures association (within the meaning of
6 the Act) and the regulatory functions that the Com-
7 mission has determined must be retained and the
8 reasons therefor.

9 (b) In conducting the study, the Commission shall so-
10 licit the views of the public as well as Commission reg-
11 istrants, registered entities, and registered futures asso-
12 ciations (all within the meaning of the Act).

13 (c) The Commission shall transmit to the Committee
14 on Agriculture of the House of Representatives and the
15 Committee on Agriculture, Nutrition, and Forestry of the
16 Senate a report of the results of its study, which shall
17 include an analysis of comments received.

18 **SEC. 125. EFFECTIVE DATE.**

19 (a) IN GENERAL.—Except as provided in subsection
20 (b), this title takes effect on the date of enactment of this
21 Act.

22 (b) JURISDICTION OF COMMISSION.—Section 106,
23 and the amendments made by that section, take effect 1
24 year after the date of enactment of this Act.

1 **SEC. 126. INTERNATIONAL ACTIVITIES OF THE COMMODITY**
2 **FUTURES TRADING COMMISSION.**

3 (a) FINDINGS.—The Congress finds that—

4 (1) derivatives markets serving United States
5 industry are increasingly global in scope;

6 (2) developments in data processing and com-
7 munications technologies enable users of risk man-
8 agement services to analyze and compare those serv-
9 ices on a worldwide basis;

10 (3) financial services regulatory policy must be
11 flexible to account for rapidly changing derivatives
12 industry business practices;

13 (4) regulatory impediments to the operation of
14 global business interests can compromise the com-
15 petitiveness of United States businesses;

16 (5) events that disrupt financial markets and
17 economies are often global in scope, require rapid
18 regulatory response, and coordinated regulatory ef-
19 fort across international jurisdictions;

20 (6) through its membership in the International
21 Organisation of Securities Commissions, the Com-
22 modity Futures Trading Commission has promoted
23 beneficial communication among market regulators
24 and international regulatory cooperation; and

25 (7) the Commodity Futures Trading Commis-
26 sion and other United States financial regulators

1 and self-regulatory organizations should continue to
2 foster productive and cooperative working relation-
3 ships with their counterparts in foreign jurisdictions.

4 (b) SENSE OF THE CONGRESS.—It is the sense of
5 the Congress that, consistent with its responsibilities
6 under the Commodity Exchange Act, the Commodity Fu-
7 tures Trading Commission should, as part of its inter-
8 national activities, continue to coordinate with foreign reg-
9 ulatory authorities, to participate in international regu-
10 latory organizations and forums, and to provide technical
11 assistance to foreign government authorities, in order to
12 encourage—

13 (1) the facilitation of cross-border transactions
14 through the removal or lessening of any unnecessary
15 legal or practical obstacles;

16 (2) the development of internationally accepted
17 regulatory standards of best practice;

18 (3) the enhancement of international super-
19 visory cooperation and emergency procedures;

20 (4) the strengthening of international coopera-
21 tion for customer and market protection; and

22 (5) improvements in the quality and timeliness
23 of international information sharing.

1 **TITLE II—SECURITIES ACTS**
2 **AMENDMENTS**

3 **Subtitle A—Amendments**

4 **SEC. 201. DEFINITIONS UNDER THE SECURITIES EX-**
5 **CHANGE ACT OF 1934.**

6 Section 3(a) of the Securities Exchange Act of 1934
7 (15 U.S.C. 78c(a)) is amended—

8 (1) in paragraph (10), by inserting “security
9 future,” after “treasury stock,”;

10 (2) by striking paragraph (11) and inserting
11 the following:

12 “(11) The term ‘equity security’ means any
13 stock or similar security; or any security future; or
14 any security convertible, with or without consider-
15 ation, into such a security, or carrying any warrant
16 or right to subscribe to or purchase such a security;
17 or any such warrant or right; or any put, call, strad-
18 dle, option, or privilege on any such security; or any
19 other security which the Commission shall deem to
20 be of similar nature and consider necessary or ap-
21 propriate, by such rules and regulations as it may
22 prescribe in the public interest or for the protection
23 of investors, to treat as an equity security.”;

24 (3) in paragraph (13), by adding at the end the
25 following: “For security future products, such term

1 includes any contract, agreement, or transaction for
2 future delivery.”;

3 (4) in paragraph (14), by adding at the end the
4 following: “For security future products, such term
5 includes any contract, agreement, or transaction for
6 future delivery.”; and

7 (5) by adding at the end the following:

8 “(55)(A) The term “security future” means a
9 contract of sale for future delivery of a single secu-
10 rity or security index, including any interest therein
11 or based on the value thereof, except—

12 “(i) an exempted security under section 3
13 of the Securities Act of 1933 or section
14 3(a)(12) of the Securities Exchange Act of
15 1934, as in effect on the date of enactment of
16 the Futures Trading Act of 1982 (other than
17 any municipal security as defined in section
18 3(a)(29) as in effect on the date of enactment
19 of the Futures Trading Act of 1982); and

20 “(ii) those contracts for future delivery
21 permitted under section 2(a)(1)(C) of the Com-
22 modity Exchange Act.

23 “(B) A “narrow-based security index” is an
24 index of securities on which contracts for future de-
25 livery are not permitted under section 2(a)(1)(C) of

1 the Commodity Exchange Act, including any interest
2 therein or based on the value thereof.

3 “(C) The term ‘security future product’ means
4 a security future or any put, call, straddle, option,
5 or privilege on any security future.

6 “(56)(A) The term ‘margin’, when used with
7 respect to a security future product, means the
8 amount, type, and form of collateral required to se-
9 cure any extension or maintenance of credit, or the
10 amount, type, and form of collateral required as a
11 performance bond related to the purchase, sale, or
12 carrying of a security future product, and all other
13 uses of collateral related to the purchasing, selling,
14 or carrying of a security future product.

15 “(B) The terms ‘margin level’ and ‘level of mar-
16 gin’, when used with respect to a security future
17 product, mean the amount of margin required to se-
18 cure any extension or maintenance of credit, or the
19 amount of margin required as a performance bond,
20 related to the purchase, sale, or carrying of a secu-
21 rity future product.

22 “(C) The terms ‘higher margin level’ and ‘high-
23 er level of margin’, when used with respect to a se-
24 curity future product, mean a margin level estab-
25 lished by a national securities exchange or a national

1 securities association registered pursuant to section
2 6(g) that is higher than the minimum amount estab-
3 lished jointly by the Commission and the Commodity
4 Futures Trading Commission pursuant to section
5 7(c)(1)(C)(ii).”.

6 **SEC. 202. REGULATORY RELIEF FOR MARKETS TRADING**
7 **SECURITY FUTURE PRODUCTS.**

8 (a) EXPEDITED REGISTRATION AND EXEMPTION.—
9 Section 6 of the Securities Exchange Act of 1934 (15
10 U.S.C. 78f) is amended by adding at the end the following:

11 “(g) NOTICE REGISTRATION OF SECURITY FUTURE
12 PRODUCT EXCHANGES.—

13 “(1) REGISTRATION REQUIRED.—An exchange
14 that lists or trades security future products may be
15 registered as a national securities exchange solely for
16 the purposes of trading security future products if—

17 “(A) the exchange is a board of trade, as
18 that term is defined by the Commodity Ex-
19 change Act (7 U.S.C. 1a(1)), that has been des-
20 ignated a contract market by the Commodity
21 Futures Trading Commission and is not subject
22 to a suspension order by the Commodity Fu-
23 tures Trading Commission; and

24 “(B) such exchange does not serve as a
25 market place for securities other than—

1 “(i) security future products; or

2 “(ii) futures on exempted securities or
3 groups or indexes of securities that have
4 been authorized by Commodity Futures
5 Trading Commission order or options
6 thereon.

7 “(2) REGISTRATION BY NOTICE FILING.—

8 “(A) FORM AND CONTENT.—An exchange
9 required to register only because such exchange
10 lists or trades security future products may reg-
11 ister for purposes of this section by filing with
12 the Commission a written notice in such form,
13 and containing the rules of the exchange and
14 such other information and documents con-
15 cerning such exchange as the Commission, by
16 rule, may prescribe as necessary or appropriate
17 in the public interest or for the protection of in-
18 vestors.

19 “(B) IMMEDIATE EFFECTIVENESS.—Such
20 registration shall be effective immediately upon
21 filing of the written notice with the Commis-
22 sion, except that such registration shall not be
23 effective if such registration would be subject to
24 suspension or revocation.

1 “(C) TERMINATION.—Such registration
2 shall be terminated immediately if any of the
3 conditions for registration set forth in this sub-
4 section are no longer satisfied.

5 “(3) PUBLIC AVAILABILITY.—The Commission
6 shall make available to the public all notices it re-
7 ceives under this subsection.

8 “(4) EXEMPTION OF EXCHANGES FROM SPECI-
9 FIED PROVISIONS.—

10 “(A) TRANSACTION EXEMPTIONS.—An ex-
11 change that is registered under paragraph (1)
12 of this subsection shall be exempt from, and
13 shall not be required to enforce compliance by
14 its members with, and its members shall not,
15 solely with respect to those transactions effected
16 on such exchange in security future products,
17 be required to comply with, the following provi-
18 sions of this title and the rules thereunder:

19 “(i) Subsections (b)(2), (b)(3), (b)(4),
20 (b)(7), (b)(9), (c), (d), and (e) of section 6.

21 “(ii) Section 11.

22 “(iii) Subsections (d), (f), and (k) of
23 section 17.

24 “(iv) Subsections (a), (f), and (h) of
25 section 19.

1 “(B) RULE CHANGE EXEMPTIONS.—An ex-
2 change that is subject to the registration re-
3 quirement of paragraph (1) of this subsection
4 shall also be exempt from submitting proposed
5 rule changes pursuant to section 19(b) of this
6 title, except that—

7 “(i) such exchange shall file proposed
8 rule changes related to higher margin lev-
9 els, fraud or manipulation, recordkeeping,
10 reporting, listing standards of security fu-
11 ture products, or sales practices for per-
12 sons who effect transactions in security fu-
13 ture products or rules primarily related to
14 such exchange’s obligation to enforce the
15 securities laws pursuant to section
16 19(b)(7);

17 “(ii) such exchange shall file pursuant
18 to sections 19(b)(1) and 19(b)(2) proposed
19 rule changes related to margin, except for
20 changes to higher margin levels; and

21 “(iii) such exchange shall file pursu-
22 ant to section 19(b)(1) proposed rule
23 changes that have been abrogated by the
24 Commission pursuant to section
25 19(b)(7)(C).

1 “(5) ASSOCIATION COMPLIANCE WITH REQUIRE-
2 MENTS.—No exchange that is registered under para-
3 graph (1) of this subsection shall trade any security
4 future product until a futures association registered
5 under section 17 of the Commodity Exchange Act
6 has met the requirements set forth in section
7 15A(k)(2) of this title.”.

8 (b) COMMISSION REVIEW OF PROPOSED RULE
9 CHANGES.—

10 (1) EXPEDITED REVIEW.—Section 19(b) of the
11 Securities Exchange Act of 1934 (15 U.S.C. 78s(b))
12 is amended by adding at the end the following:

13 “(7) SECURITY FUTURE PRODUCT RULE
14 CHANGES.—

15 “(A) FILING REQUIRED.—A self-regulatory
16 organization that is an exchange registered with
17 the Commission pursuant to section 6(g) of this
18 title or that is a futures association registered
19 pursuant to section 15A(k) of this title shall file
20 with the Commission, in accordance with such
21 rules as the Commission may prescribe, copies
22 of any proposed rule change or any proposed
23 change in, addition to, or deletion from the
24 rules of such self-regulatory organization (here-
25 inafter in this paragraph collectively referred to

1 as a ‘proposed rule change’) that relates to
2 higher margin levels, fraud or manipulation,
3 recordkeeping, reporting, listing standards of
4 security future products, or sales practices for
5 persons who effect transactions in security fu-
6 ture products or rules primarily related to such
7 self-regulatory organization’s obligation to en-
8 force the securities laws. Such proposed rule
9 change shall be accompanied by a concise gen-
10 eral statement of the basis and purpose of such
11 proposed rule change. The Commission shall,
12 upon the filing of any proposed rule change,
13 publish notice thereof together with the terms
14 of substance of the proposed rule change or a
15 description of the subjects and issues involved.
16 The Commission shall give interested persons
17 an opportunity to submit written data, views,
18 and arguments concerning such proposed rule
19 change.

20 “(B) FILING WITH CFTC.—A proposed rule
21 change filed with the Commission pursuant to
22 subparagraph (A) shall be filed concurrently
23 with the Commodity Futures Trading Commis-
24 sion. Such proposed rule change may take ef-
25 fect upon a determination by the Commodity

1 Futures Trading Commission that review of the
2 proposed rule change is not necessary or upon
3 approval of the proposed rule change by the
4 Commodity Futures Trading Commission.

5 “(C) ABROGATION OF RULE CHANGES.—

6 Any proposed rule change of a self-regulatory
7 organization that has taken effect pursuant to
8 subparagraph (B) may be enforced by such self-
9 regulatory organization to the extent such rule
10 is not inconsistent with the provisions of this
11 title, the rules and regulations thereunder, and
12 applicable Federal law. At any time within 60
13 days of the date the Commodity Futures Trad-
14 ing Commission determines that review of such
15 proposed rule change is not necessary or the
16 date the Commodity Futures Trading Commis-
17 sion approves such proposed rule change, the
18 Commission, after consultation with the Com-
19 modity Futures Trading Commission, sum-
20 marily may abrogate the proposed rule change
21 and require that the proposed rule change be
22 refiled in accordance with the provisions of
23 paragraph (1), if it appears to the Commission
24 that such proposed rule change unduly burdens
25 competition, conflicts with the securities laws,

1 or does not promote efficiency. Commission ac-
2 tion pursuant to the preceding sentence shall
3 not affect the validity or force of the rule
4 change during the period it was in effect and
5 shall not be reviewable under section 25 nor
6 deemed to be a final agency action for purposes
7 of section 704 of title 5, United States Code.

8 “(D) REVIEW OF RESUBMITTED ABRO-
9 GATED RULES.—

10 “(i) PROCEEDINGS.—Within 35 days
11 of the date of publication of notice of the
12 filing of a proposed rule change that is ab-
13 rogated in accordance with subparagraph
14 (C) and refiled in accordance with para-
15 graph (1), or within such longer period as
16 the Commission may designate up to 90
17 days after such date if the Commission
18 finds such longer period to be appropriate
19 and publishes its reasons for so finding or
20 as to which the self-regulatory organization
21 consents, the Commission shall—

22 “(I) by order approve such pro-
23 posed rule change; or

24 “(II) after consultation with the
25 Commodity Futures Trading Commis-

1 sion, institute proceedings to deter-
2 mine whether the proposed rule
3 change should be disapproved.

4 Proceedings under subclause (II) shall in-
5 clude notice of the grounds for disapproval
6 under consideration and opportunity for
7 hearing and be concluded within 180 days
8 after the date of publication of notice of
9 the filing of the proposed rule change. At
10 the conclusion of such proceedings, the
11 Commission, by order, shall approve or dis-
12 approve such proposed rule change. The
13 Commission may extend the time for con-
14 clusion of such proceedings for up to 60
15 days if it finds good cause for such exten-
16 sion and publishes its reasons for so find-
17 ing or for such longer period as to which
18 the self-regulatory organization consents.

19 “(ii) GROUNDS FOR APPROVAL.—The
20 Commission shall approve a proposed rule
21 change of a self-regulatory organization
22 under this subparagraph if it finds that
23 such proposed rule change promotes effi-
24 ciency, does not unduly burden competi-
25 tion, and does not conflict with the securi-

1 ties laws. The Commission shall disapprove
2 such a proposed rule change of a self-regu-
3 latory organization if it does not make
4 such finding. The Commission shall not
5 approve any proposed rule change prior to
6 the 30th day after the date of publication
7 of notice of the filing thereof, unless the
8 Commission finds good cause for so doing
9 and publishes its reasons for so finding.”.

10 (2) CONSULTATION PROVISIONS.—Section 19(b)
11 of the Securities Exchange Act of 1934 (15 U.S.C.
12 78s(b)) is amended by inserting after paragraph (7),
13 as added by paragraph (1), the following:

14 “(8) CONSULTATION WITH CFTC.—

15 “(A) CONSULTATION REQUIRED.—The
16 Commission shall consult with and consider the
17 views of the Commodity Futures Trading Com-
18 mission prior to approving a proposed rule
19 change filed by a national securities association
20 registered pursuant to section 15A(a) or a na-
21 tional securities exchange subject to the provi-
22 sions of subsection (a) that primarily concerns
23 conduct related to transactions in security fu-
24 tures products, except where the Commission
25 determines that an emergency exists requiring

1 expeditious or summary action and publishes its
2 reasons therefor.

3 “(B) RESPONSES TO CFTC COMMENTS AND
4 FINDINGS.—If the Commodity Futures Trading
5 Commission comments in writing to the Com-
6 mission on a proposed rule that has been pub-
7 lished for comment, the Commission shall re-
8 spond in writing to such written comment be-
9 fore approving the proposed rule. If the Com-
10 modity Futures Trading Commission deter-
11 mines, and notifies the Commission, that such
12 rule, if implemented, would, or as applied—

13 “(i) adversely affect the liquidity or
14 efficiency of the market for security future
15 products; or

16 “(ii) impose any burden on competi-
17 tion not necessary or appropriate in fur-
18 therance of the purposes of this section,
19 the Commission shall, prior to adopting the
20 proposed rule, find that such rule is necessary
21 and appropriate in furtherance of the purposes
22 of this section notwithstanding the Commodity
23 Futures Trading Commission’s determination.

24 “(C) CONSIDERATIONS OF EXISTING REG-
25 ULATION.—In approving rules described in sub-

1 paragraph (A), the Commission shall consider
2 the sufficiency and appropriateness of then ex-
3 isting laws and rules applicable to security fu-
4 tures products.”.

5 (c) REVIEW OF DISCIPLINARY PROCEEDINGS.—Sec-
6 tion 19(d) of the Securities Exchange Act of 1934 (15
7 U.S.C. 78s(d)) is amended by adding at the end the fol-
8 lowing:

9 “(3) The provisions of this subsection shall apply to
10 an exchange registered pursuant to section 6(g) of this
11 title or a futures association registered pursuant to section
12 15A(k) of this title only to the extent that such self-regu-
13 latory organization imposes any final disciplinary sanction
14 related to a security future product or the securities
15 laws.”.

16 **SEC. 203. REGULATORY RELIEF FOR INTERMEDIARIES**
17 **TRADING SECURITY FUTURE PRODUCTS.**

18 (a) EXPEDITED REGISTRATION AND EXEMPTIONS.—

19 (1) AMENDMENT.—Section 15(b) of the Securi-
20 ties Exchange Act of 1934 (15 U.S.C. 78o(b)) is
21 amended by adding at the end the following:

22 “(11) BROKER/DEALER REGISTRATION WITH
23 RESPECT TO TRANSACTIONS IN SECURITY FUTURE
24 PRODUCTS.—

25 “(A) NOTICE REGISTRATION.—

1 “(i) CONTENTS OF NOTICE.—Not-
2 withstanding paragraphs (1) and (2), a
3 broker or dealer required to register only
4 because it effects transactions in security
5 future products on an exchange registered
6 pursuant to section 6(g) may register for
7 purposes of this section by filing with the
8 Commission a written notice in such form
9 and containing such information con-
10 cerning such broker or dealer and any per-
11 sons associated with such broker or dealer
12 as the Commission, by rule, may prescribe
13 as necessary or appropriate in the public
14 interest or for the protection of investors.
15 A broker or dealer may not register under
16 this paragraph unless that broker or dealer
17 is a member of a futures association reg-
18 istered under section 15A(k).

19 “(ii) IMMEDIATE EFFECTIVENESS.—
20 Such registration shall be effective imme-
21 diately upon filing of the written notice
22 with the Commission, except that such reg-
23 istration shall not be effective if the reg-
24 istration would be subject to suspension or
25 revocation under paragraph (4).

1 “(iii) SUSPENSION.—Such registration
2 shall be suspended immediately if a futures
3 association registered pursuant to section
4 15A(k) of this title suspends the member-
5 ship of that broker or dealer.

6 “(iv) TERMINATION.—Such registra-
7 tion shall be terminated immediately if any
8 of the above stated conditions for registra-
9 tion set forth in this paragraph are no
10 longer satisfied.

11 “(B) EXEMPTIONS FOR REGISTERED BRO-
12 KERS AND DEALERS.—A broker or dealer reg-
13 istered pursuant to the requirements of sub-
14 paragraph (A) shall be exempt from the fol-
15 lowing provisions of this title and the rules
16 thereunder with respect to transactions in secu-
17 rity future products:

18 “(i) Section 8.

19 “(ii) Subsection (a) of section 10.

20 “(iii) Section 11.

21 “(iv) Subsections (c)(3) and (c)(5) of
22 this section.

23 “(v) Section 15B.

24 “(vi) Section 15C.

1 “(vii) Subsections (d), (e), (f), (g),
2 (h), and (i) of section 17.”.

3 (2) CONFORMING AMENDMENT.—Section 28(e)
4 of the Securities Exchange Act of 1934 (15 U.S.C.
5 78bb(e)) is amended by adding at the end the fol-
6 lowing:

7 “(4) The provisions of this subsection shall not apply
8 with regard to securities that are security future prod-
9 ucts.”.

10 (b) FLOOR BROKERS.—Section 15(b) of the Securi-
11 ties Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended
12 by inserting after paragraph (11), as added by subsection
13 (a), the following:

14 “(12) EXEMPTION FOR SECURITY FUTURE
15 PRODUCT EXCHANGE MEMBERS.—

16 “(A) REGISTRATION EXEMPTION.—A nat-
17 ural person shall be exempt from the registra-
18 tion requirements of this section if such
19 person—

20 “(i) is a member of a designated con-
21 tract market registered with the Commis-
22 sion as an exchange pursuant to section
23 6(g);

1 “(ii) only effects transactions in secu-
2 rities of the exchange of which such person
3 is a member; and

4 “(iii) has no direct contact with public
5 customers.

6 “(B) OTHER EXEMPTIONS.—A natural
7 person exempt from registration pursuant to
8 subparagraph (A) shall also be exempt from the
9 following provisions of this title and the rules
10 thereunder:

11 “(i) Section 8.

12 “(ii) Subsection (a) of section 10.

13 “(iii) Section 11.

14 “(iv) Subsections (c)(3), (c)(5), and
15 (e) of this section.

16 “(v) Section 15B.

17 “(vi) Section 15C.

18 “(vii) Subsections (d), (e), (f), (g),
19 (h), and (i) of section 17.”.

20 (c) LIMITED PURPOSE NATIONAL SECURITIES ASSO-
21 CIATION.—Section 15A of the Securities Exchange Act of
22 1934 (15 U.S.C. 78o–3) is amended by adding at the end
23 the following:

24 “(k) LIMITED PURPOSE NATIONAL SECURITIES AS-
25 SOCIATION.—

1 “(1) REGULATION OF MEMBERS WITH RESPECT
2 TO SECURITY FUTURE PRODUCTS.—Unless it has no
3 members that effect transactions in security future
4 products, a futures association registered under sec-
5 tion 17 of the Commodity Exchange Act shall be a
6 registered national securities association for the lim-
7 ited purpose of regulating the activities of members
8 who are registered as brokers or dealers in security
9 future products pursuant to section 15(b)(11).

10 “(2) REQUIREMENTS FOR REGISTRATION.—
11 Such a futures association shall—

12 “(A) be so organized and have the capacity
13 to carry out the purposes of the securities laws
14 applicable to security future products and to
15 comply, and (subject to any rule or order of the
16 Commission pursuant to section 19(g)(2)) to
17 enforce compliance by its members and persons
18 associated with its members, with the provisions
19 of the securities laws applicable to security fu-
20 ture products, the rules and regulations there-
21 under, and its rules;

22 “(B) have rules that—

23 “(i) are designed to prevent fraudu-
24 lent and manipulative acts and practices,
25 to promote just and equitable principles of

1 trade, and, in general, to protect investors
2 and the public interest, including rules
3 governing sales practices and the adver-
4 tising of security future products com-
5 parable to those of other national securities
6 associations registered pursuant to sub-
7 section (a); and

8 “(ii) are not designed to regulate by
9 virtue of any authority conferred by this
10 title matters not related to the purposes of
11 this title or the administration of the asso-
12 ciation;

13 “(C) have rules that provide that (subject
14 to any rule or order of the Commission pursu-
15 ant to section 19(g)(2)) its members and per-
16 sons associated with its members shall be ap-
17 propriately disciplined for violation of any provi-
18 sion of the securities laws applicable to security
19 future products, the rules or regulations there-
20 under, or the rules of the association, by expul-
21 sion, suspension, limitation of activities, func-
22 tions, and operations, fine, censure, being sus-
23 pended or barred from being associated with a
24 member, or any other fitting sanction; and

1 “(D) have rules that ensure that members
2 and natural persons associated with members
3 meet such standards of training, experience,
4 and competence necessary to effect transactions
5 in security future products and are tested for
6 their knowledge of securities and security future
7 products.

8 “(3) EXEMPTION FROM RULE CHANGE SUBMIS-
9 SION.—Such a futures association shall be exempt
10 from submitting proposed rule changes pursuant to
11 section 19(b) of this title, except that—

12 “(A) the association shall file proposed
13 rule changes related to higher margin levels,
14 fraud or manipulation, recordkeeping, report-
15 ing, listing standards of security future prod-
16 ucts, sales practices, advertising of security fu-
17 ture products, or standards of training, experi-
18 ence, competence, or other qualifications for
19 persons who effect transactions in security fu-
20 ture products or rules primarily related to the
21 association’s obligation to enforce the securities
22 laws pursuant to section 19(b)(7);

23 “(B) the association shall file pursuant to
24 sections 19(b)(1) and 19(b)(2) proposed rule

1 changes related to margin, except for changes
2 to higher margin levels; and

3 “(C) the association shall file pursuant to
4 section 19(b)(1) proposed rule changes that
5 have been abrogated by the Commission pursu-
6 ant to section 19(b)(7)(C).

7 “(4) OTHER EXEMPTIONS.—Such a futures as-
8 sociation shall be exempt from and shall not be re-
9 quired to enforce compliance by its members, and its
10 members shall not, solely with respect to their trans-
11 actions effected in security future products, be re-
12 quired to comply, with the following provisions of
13 this title and the rules thereunder:

14 “(A) Subsections (b)(1), (b)(3), (b)(4),
15 (b)(5), (b)(8), (b)(10), (b)(11), (b)(12), (b)(13),
16 (c), (d), (e), (f), (g), (h), and (i) of this section.

17 “(B) Subsections (d), (f), and (k) of sec-
18 tion 17.

19 “(C) Subsections (a), (f), and (h) of sec-
20 tion 19.”.

21 (d) EXEMPTION UNDER THE SECURITIES INVESTOR
22 PROTECTION ACT OF 1970.—

23 (1) Section 16(14) of the Securities Investor
24 Protection Act of 1970 (15 U.S.C. 78lll(14)) is
25 amended by inserting “or any security future as that

1 term is defined in section 3(a)(55)(A) of the Securi-
2 ties Exchange Act of 1934,” after “certificate of de-
3 posit for a security,”.

4 (2) Section 3(a)(2)(A) of the Securities Investor
5 Protection Act of 1970 (15 U.S.C. 78ccc(a)(2)(A))
6 is amended—

7 (A) in clause (i), by striking “and” after
8 the semicolon;

9 (B) in clause (ii), by striking the period
10 and inserting “; and”;

11 (C) by adding at the end the following:

12 “(iii) persons who are registered as a
13 broker or dealer pursuant to section
14 15(b)(11)(A) of the Securities Exchange
15 Act of 1934.”.

16 (e) OTHER PROVISION.—Section 15(i)(6)(A) of the
17 Securities Exchange Act of 1934 (15 U.S.C. 78o(i)(6)(A))
18 is amended—

19 (1) in clause (ii), by striking “and” after the
20 semicolon;

21 (2) in clause (iii), by striking the period and in-
22 serting “; and”; and

23 (3) by adding at the end the following:

24 “(iv) is not a security future prod-
25 uct.”.

1 **SEC. 204. SPECIAL PROVISIONS FOR INTERAGENCY CO-**
2 **OPERATION.**

3 Section 17 of the Securities Exchange Act of 1934
4 (15 U.S.C. 78q) is amended by striking subsection (b) and
5 inserting the following:

6 “(b) RECORDS SUBJECT TO EXAMINATION.—

7 “(1) PROCEDURES FOR COOPERATION WITH
8 OTHER AGENCIES.—All records of persons described
9 in subsection (a) are subject at any time, or from
10 time to time, to such reasonable periodic, special, or
11 other examinations by representatives of the Com-
12 mission and the appropriate regulatory agency for
13 such persons as the Commission or the appropriate
14 regulatory agency for such persons deems necessary
15 or appropriate in the public interest, for the protec-
16 tion of investors, or otherwise in furtherance of the
17 purposes of this title if the Commission, prior to
18 conducting any such examination of a—

19 “(A) registered clearing agency, registered
20 transfer agent, or registered municipal securi-
21 ties dealer for which it is not the appropriate
22 regulatory agency, gives notice to the appro-
23 priate regulatory agency for such clearing agen-
24 cy, transfer agent, or municipal securities deal-
25 er, of such proposed examination and consults
26 with the appropriate regulatory agency con-

cerning the feasibility and desirability of coordinating such examinations conducted by the appropriate regulatory agency with a view to avoiding unnecessary regulatory duplication or undue regulatory burdens for such clearing agency, transfer agent, or municipal securities dealer; or

“(B) broker or dealer registered pursuant to section 15(b)(11) or exchange registered pursuant to section 6(g), gives notice to the Commodity Futures Trading Commission of such proposed examination and consults with the Commodity Futures Trading Commission concerning the feasibility and desirability of coordinating such examination with examinations conducted by the Commodity Futures Trading Commission with a view to avoiding unnecessary regulatory duplication or undue regulatory burdens for such broker or dealer or exchange.

“(2) FURNISHING DATA AND REPORTS TO CFTC.—The Commission shall notify the Commodity Futures Trading Commission of any examination conducted of any broker or dealer registered pursuant to section 15(b)(11) or exchange registered pursuant to section 6(g), and, upon request, furnish to

1 the Commodity Futures Trading Commission any
2 examination report and data supplied to the Com-
3 mission in connection with such examination.

4 “(3) USE OF CFTC REPORTS.—The Commission
5 shall, to the fullest extent possible, use the reports
6 of examinations of any broker or dealer registered
7 pursuant to section 15(b)(11) or exchange registered
8 pursuant to section 6(g) made by the Commodity
9 Futures Trading Commission, a futures association
10 registered pursuant to section 15A(k), or an ex-
11 change registered pursuant to section 6(g).

12 “(4) RULE OF CONSTRUCTION.—Nothing in
13 this subsection shall be construed to impair or limit
14 (other than by the requirement of prior consultation)
15 the power of the Commission under this subsection
16 to examine any clearing agency, transfer agent, or
17 municipal securities dealer, broker or dealer reg-
18 istered pursuant to section 15(b)(11), or exchange
19 registered pursuant to section 6(g), or to affect in
20 any way the power of the Commission under any
21 other provision of this title or otherwise to inspect,
22 examine, or investigate any clearing agency, transfer
23 agent, or municipal securities dealer, broker or deal-
24 er registered pursuant to section 15(b)(11), or ex-
25 change registered pursuant to section 6(g).”.

1 **SEC. 205. MAINTENANCE OF MARKET INTEGRITY FOR SE-**
2 **SECURITY FUTURE PRODUCTS.**

3 (a) ADDITION OF SECURITY FUTURE PRODUCTS TO
4 OPTION-SPECIFIC ENFORCEMENT PROVISIONS.—

5 (1) PROHIBITION AGAINST MANIPULATION.—

6 Section 9(b) of the Securities Exchange Act of 1934
7 (15 U.S.C. 78i(b)) is amended—

8 (A) in paragraph (1)—

9 (i) by inserting “(A)” after “ac-
10 quires”; and

11 (ii) by striking “; or” and inserting “,
12 or (B) any contract of sale of the security
13 for future delivery; or”;

14 (B) in paragraph (2)—

15 (i) by inserting “(A)” after “interest
16 in any”; and

17 (ii) by striking “; or” and inserting “,
18 or (B) such contract of sale for future de-
19 livery; or”; and

20 (C) in paragraph (3)—

21 (i) by inserting “(A)” after “interest
22 in any”; and

23 (ii) by inserting “, or (B) such con-
24 tract of sale for future delivery” after
25 “privilege”.

1 (2) MANIPULATION IN OPTIONS AND OTHER
2 DERIVATIVE PRODUCTS.—Section 9(g) of the Securi-
3 ties Exchange Act of 1934 (15 U.S.C. 78i(g)) is
4 amended—

5 (A) by inserting “(1)” after “(g)”; and

6 (B) by adding at the end following:

7 “(2) Notwithstanding the Commodity Exchange Act,
8 the Commission shall have the authority to regulate the
9 trading of any security future product to the extent pro-
10 vided in the securities laws.”.

11 (3) LIABILITY OF CONTROLLING PERSONS AND
12 PERSONS WHO AID AND ABET VIOLATIONS.—Section
13 20(d) of the Securities Exchange Act of 1934 (15
14 U.S.C. 78t(d)) is amended by striking “or privilege”
15 and inserting “, privilege, or security future prod-
16 uct”.

17 (4) LIABILITY TO CONTEMPORANEOUS TRADERS
18 FOR INSIDER TRADING.—Section 21A(a)(1) of the
19 Securities Exchange Act of 1934 (15 U.S.C. 78u-
20 1(a)(1)) is amended by striking “standardized op-
21 tions, the Commission—” and inserting “standard-
22 ized options or security future products, the Com-
23 mission—”.

24 (5) ENFORCEMENT CONSULTATION.—Section
25 21 of the Securities Exchange Act of 1934 (15

1 U.S.C. 78u) is amended by adding at the end the
2 following:

3 “(i) INFORMATION TO CFTC.—The Commission
4 shall file with the Commodity Futures Trading Commis-
5 sion notice of the commencement of any proceeding and
6 a copy of any order entered by the Commission against
7 any broker or dealer registered pursuant to section
8 15(b)(11) or any exchange registered pursuant to section
9 6(g).”.

10 **SEC. 206. SPECIAL PROVISIONS FOR THE TRADING OF SE-**
11 **CURITY FUTURE PRODUCTS.**

12 (a) LISTING STANDARDS.—Section 6 of the Securi-
13 ties Exchange Act of 1934 (15 U.S.C. 78f) is amended
14 by inserting after subsection (g), as added by section 202,
15 the following:

16 “(h) TRADING IN SECURITY FUTURE PRODUCTS.—

17 “(1) TRADING ON EXCHANGE OR ASSOCIATION
18 REQUIRED.—It shall be unlawful for any person to
19 effect transactions in security future products other-
20 wise than on a national securities exchange or a na-
21 tional securities association registered pursuant to
22 section 15A(a).

23 “(2) LISTING STANDARDS REQUIRED.—A na-
24 tional securities exchange or a national securities as-
25 sociation registered pursuant to section 15A(a) may

1 trade only security future products that conform
2 with listing standards that such exchanges file with
3 the Commission under section 19(b)(7) and the
4 Commodity Futures Trading Commission under sec-
5 tion 5c(c) of the Commodity Exchange Act.

6 “(3) REQUIREMENTS FOR LISTING STAND-
7 ARDS.—Such listing standards shall—

8 “(A) require that any security underlying
9 the security future, including each component
10 security of a narrow-based security index, be
11 registered pursuant to section 12 of this title;

12 “(B) require that the security future prod-
13 uct be cash settled;

14 “(C) be no less restrictive than comparable
15 listing standards for options;

16 “(D) require that the security future be
17 based upon common stock and such other eq-
18 uity securities as the Commission determines
19 appropriate;

20 “(E) require that the security future prod-
21 uct is cleared by a clearing agency that has in
22 place provisions for linked and coordinated
23 clearing with other clearing agencies that clear
24 security future products, which permits the se-
25 curity future product to be purchased on a na-

1 tional securities exchange or national securities
2 association registered pursuant to section
3 15A(a) and offset on another national securities
4 exchange or national securities association reg-
5 istered pursuant to section 15A(a);

6 “(F) require that only a broker or dealer
7 subject to suitability rules comparable to those
8 of a national securities association registered
9 pursuant to section 15A(a) effect transactions
10 in the security future product;

11 “(G) require that the security future prod-
12 uct be subject to the prohibition against dual
13 trading in section 4(j) of the Commodity Ex-
14 change Act (7 U.S.C. 6j) or the provisions of
15 section 11(a) of this title and the rules and reg-
16 ulations thereunder, except to the extent other-
17 wise permitted under this title and the rules
18 and regulations thereunder;

19 “(H) require that trading in the security
20 future product and any security that underlies
21 the security future product not be readily sus-
22 ceptible to manipulation;

23 “(I) require that procedures be in place for
24 coordinated surveillance to detect manipulation
25 and insider trading between the market trading

1 the security future product, the market trading
2 the securities underlying the security future
3 product, and other markets trading related se-
4 curities;

5 “(J) require that the market trading the
6 security future product has in place audit trails
7 necessary or appropriate to facilitate the coordi-
8 nated surveillance required in subparagraph (I);

9 “(K) require that the market trading the
10 security future product has in place procedures
11 to coordinate trading halts between that market
12 and markets trading the securities underlying
13 the security future product and other markets
14 trading related securities; and

15 “(L) require that the margin requirements
16 for a security future product be consistent with
17 the margin requirements for comparable option
18 contracts traded on an exchange registered pur-
19 suant to section 6(a) of this title and that ini-
20 tial and maintenance margin levels for a secu-
21 rity future product shall not be lower than the
22 levels of margin required for comparable option
23 contracts traded on an exchange registered pur-
24 suant to section 6(a) of this title, except that
25 nothing in this subparagraph shall be construed

1 to prevent a national securities exchange or na-
2 tional securities association from requiring
3 higher margin levels for a security future prod-
4 uct when it deems such action to be necessary
5 or appropriate.

6 “(4) DEFERRAL OF OPTIONS ON FUTURES
7 TRADING.—No person shall offer to enter into, enter
8 into, or confirm the execution of any option on a se-
9 curity future, except that after 3 years after the
10 date of enactment of this subsection, the Commis-
11 sion and the Commodity Futures Trading Commis-
12 sion may by order determine to permit trading of
13 options on any security future authorized to be trad-
14 ed under the provisions of this Act and the Com-
15 modity Exchange Act. Before any such determina-
16 tion, the Commission and the Commodity Futures
17 Trading Commission shall conduct a study of the ef-
18 fect of the trading of security futures on the mar-
19 kets for futures contracts, securities, and options
20 and the adequacy of protections for investors and
21 other market participants.”.

22 (b) MARGIN.—Section 7(c) of the Securities Ex-
23 change Act of 1934 (15 U.S.C. 78g(c)) is amended—

24 (1) in paragraph (1)(A), by inserting “except as
25 provided in paragraph (2),” after “security),”; and

1 (2) by redesignating paragraph (2) as para-
2 graph (3); and

3 (3) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) JOINT REGULATIONS.—

6 “(A) COMPLIANCE WITH MARGIN RULES
7 REQUIRED.—It shall be unlawful for any
8 broker, dealer, or member of a national securi-
9 ties exchange to, directly or indirectly, extend
10 or maintain credit to or for, or collect margin
11 from any customer on, any security future
12 product unless such activities comply with the
13 rules and regulations which the Commission
14 and the Commodity Futures Trading Commis-
15 sion shall prescribe pursuant to subparagraph
16 (B).

17 “(B) CRITERIA FOR ISSUANCE OF JOINT
18 RULES.—The Commission and the Commodity
19 Futures Trading Commission shall issue jointly
20 such regulations to establish margin require-
21 ments, including the establishment of levels of
22 margin (initial and maintenance) and use of
23 collateral for security future products under
24 such terms, and at such levels, as the Commis-

1 sion and the Commodity Futures Trading Com-
2 mission jointly deem appropriate—

3 “(i) to preserve the financial integrity
4 of markets trading security future prod-
5 ucts;

6 “(ii) to prevent systemic risk;

7 “(iii) to make equivalent the margin
8 levels (initial and maintenance) and other
9 margin requirements between security fu-
10 ture products and comparable options con-
11 tracts traded on a national securities ex-
12 change; and

13 “(iv) to ensure that the margin re-
14 quirements, other than levels of margin,
15 including the type, form, and use of collat-
16 eral for security future products, are and
17 remain consistent with the requirements
18 established by the Federal Reserve Board,
19 pursuant to subparagraphs (A) and (B) of
20 paragraph (1).”.

21 (c) INCORPORATION OF SECURITY FUTURE PROD-
22 UCTS INTO THE NATIONAL MARKET SYSTEM.—Section
23 11A of the Securities Exchange Act of 1934 (15 U.S.C.
24 78k–1) is amended by adding at the end the following:

1 “(e) NATIONAL MARKETS SYSTEM FOR SECURITY
2 FUTURE PRODUCTS.—

3 “(1) CONSULTATION AND COOPERATION RE-
4 QUIRED.—With respect to security future products,
5 the Commission and the Commodity Futures Trad-
6 ing Commission shall consult and cooperate so that,
7 to the maximum extent practicable, their respective
8 regulatory responsibilities may be fulfilled and the
9 rules and regulations applicable to security future
10 products may foster a national market system for
11 security future products if the Commission and the
12 Commodity Futures Trading Commission determine
13 that such a system would be consistent with the con-
14 gressional findings in subsection (a)(1). In accord-
15 ance with this objective, the Commission shall, at
16 least 15 days prior to the issuance for public com-
17 ment of any proposed rule or regulation under this
18 section concerning security future products, consult
19 and request the views of the Commodity Futures
20 Trading Commission.

21 “(2) APPLICATION OF RULES BY ORDER OF
22 CFTC.—No rule adopted pursuant to this section
23 shall be applied to any person with respect to secu-
24 rity future products traded on an exchange that is
25 registered under section 6(g) unless the Commodity

1 Futures Trading Commission has issued an order di-
2 recting that such rule is applicable to such per-
3 sons.”.

4 (d) INCORPORATION OF SECURITY FUTURE PROD-
5 UCTS INTO THE NATIONAL SYSTEM FOR CLEARANCE AND
6 SETTLEMENT.—Section 17A(b) of the Securities Ex-
7 change Act of 1934 (15 U.S.C. 78q–1(b)) is amended by
8 adding at the end the following:

9 “(7) A clearing agency that is regulated directly or
10 indirectly by the Commodity Futures Trading Commission
11 through its association with a designated contract market
12 for security future products, and that only performs the
13 functions of a clearing agency with respect to security fu-
14 ture products and transactions in securities effected pur-
15 suant to the rules of the designated contract market with
16 which such agency is associated, is exempted from the pro-
17 visions of this section and the rules and regulations there-
18 under, except that any clearing agency that performs the
19 functions of a clearing agency with respect to security fu-
20 ture products must coordinate with and develop fair and
21 reasonable links with any and all other clearing agencies
22 that perform the functions of a clearing agency with re-
23 spect to security future products, in order to permit secu-
24 rity future products to be purchased on a national securi-
25 ties exchange or national securities association registered

1 pursuant to section 15A(a) and offset on another national
2 securities exchange or national securities association reg-
3 istered pursuant to section 15A(a).”.

4 (e) MARKET EMERGENCY POWERS AND CIRCUIT
5 BREAKERS.—Section 12(k) of the Securities Exchange
6 Act of 1934 (15 U.S.C. 78l(k)) is amended—

7 (1) in paragraph (1), by adding at the end the
8 following: “If the actions described in subparagraph
9 (A) or (B) involve a security future product, the
10 Commission shall consult with and consider the
11 views of the Commodity Futures Trading Commis-
12 sion.”; and

13 (2) in paragraph (2)(B), by inserting after the
14 first sentence the following: “If the actions described
15 in subparagraph (A) involve a security future prod-
16 uct, the Commission shall consult with and consider
17 the views of the Commodity Futures Trading Com-
18 mission.”.

19 **SEC. 207. CLEARANCE AND SETTLEMENT.**

20 Section 17A of the Securities Exchange Act of 1934
21 (15 U.S.C. 78q–1) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (1), by inserting after
24 subparagraph (D) the following:

1 “(E) The clearance and settlement of trans-
2 actions in over-the-counter derivatives through clear-
3 ing agencies registered with the Commission will re-
4 duce systemic risk and provide stability to financial
5 markets during times of market disorder.”; and

6 (B) in paragraph (2)(A)(ii), by striking
7 “and commodity options” and inserting “com-
8 modity options, and over-the-counter deriva-
9 tives”; and
10 (2) in subsection (b)—

11 (A) in paragraph (3)(A), by inserting “and
12 derivative agreements, contracts, and trans-
13 actions” after “prompt and accurate clearance
14 and settlement of securities transactions”;

15 (B) in paragraph (3)(F), by inserting
16 “and, to the extent applicable, derivative agree-
17 ments, contracts, and transactions” after “de-
18 signed to promote the prompt and accurate
19 clearance and settlement of securities trans-
20 actions”; and

21 (C) by inserting after paragraph (6) the
22 following:

23 “(7) A registered clearing agency shall be permitted
24 to provide facilities for the clearance and settlement of any
25 derivative agreements, contracts, or transactions that are

1 excluded from the Commodity Exchange Act, subject to
2 the requirements of this section and to such rules and reg-
3 ulations as the Commission may prescribe as necessary or
4 appropriate in the public interest, for the protection of in-
5 vestors, or otherwise in furtherance of the purposes of this
6 title.”.

7 **SEC. 208. AMENDMENTS RELATING TO REGISTRATION AND**
8 **DISCLOSURE ISSUES UNDER THE SECURI-**
9 **TIES ACT OF 1933 AND THE SECURITIES EX-**
10 **CHANGE ACT OF 1934.**

11 (a) AMENDMENTS TO THE SECURITIES ACT OF
12 1933.—

13 (1) TREATMENT OF SECURITY FUTURE PROD-
14 UCTS.—Section 2(a) of the Securities Act of 1933
15 (15 U.S.C. 77b(a)) is amended—

16 (A) in paragraph (1), by inserting “secu-
17 rity future,” after “treasury stock,”;

18 (B) in paragraph (3), by adding at the end
19 the following: “Any offer or sale of a security
20 future product by or on behalf of the issuer of
21 the securities underlying the security future
22 product, an affiliate of the issuer, or an under-
23 writer, shall constitute a contract for sale of,
24 sale of, offer for sale, or offer to sell the
25 issuer’s underlying securities.”;

1 (C) by adding at the end the following:

2 “(16) The terms ‘security future’, ‘narrow-
3 based security index’, and ‘security future product’
4 have the same meanings as provided in section
5 3(a)(55) of the Securities Exchange Act of 1934.”.

6 (2) EXEMPTION FROM REGISTRATION.—Section
7 3(a) of the Securities Act of 1933 (15 U.S.C.
8 77c(a)) is amended by adding at the end the fol-
9 lowing:

10 “(14) Any security future product that is—

11 “(A) cleared by a clearing agency reg-
12 istered under section 17A of the Securities Ex-
13 change Act of 1934 or exempt from registration
14 under subsection (b)(4) of section 17A of the
15 Securities Exchange Act of 1934; and

16 “(B) traded on a national securities ex-
17 change or a national securities association reg-
18 istered pursuant to section 15A(a) of the Secu-
19 rities Exchange Act of 1934.”.

20 (3) CONFORMING AMENDMENT.—Section
21 12(a)(2) of the Securities Act of 1933 (15 U.S.C.
22 77l(a)(2)) is amended by striking “paragraph (2)”
23 and inserting “paragraphs (2) and (14)”.

24 (b) AMENDMENTS TO THE SECURITIES EXCHANGE
25 ACT OF 1934.—

1 (1) EXEMPTION FROM REGISTRATION.—Section
2 12(a) of the Securities Exchange Act of 1934 (15
3 U.S.C. 78l(a)) is amended by adding at the end the
4 following: “The provisions of this subsection shall
5 not apply in respect of a security future product list-
6 ed on a national securities exchange.”.

7 (2) EXEMPTIONS FROM REPORTING REQUIRE-
8 MENT.—Section 12(g)(5) of the Securities Exchange
9 Act of 1934 (15 U.S.C. 78l(g)(5)) is amended by
10 adding at the end the following: “For purposes of
11 this subsection, a security future product shall not
12 be considered a class of equity security of the issuer
13 of the securities underlying the security future prod-
14 uct.”.

15 (3) TRANSACTIONS BY CORPORATE INSIDERS.—
16 Section 16 of the Securities Exchange Act of 1934
17 (15 U.S.C. 78p) is amended by adding at the end
18 the following:

19 “(f) TREATMENT OF TRANSACTIONS IN SECURITY
20 FUTURE PRODUCTS.—The provisions of this section shall
21 apply to ownership of and transactions in security future
22 products as if they were ownership of and transactions in
23 the underlying equity security. The Commission may
24 adopt such rules and regulations as it deems necessary

1 or appropriate in the public interest to carry out the pur-
2 poses of this section.”.

3 **SEC. 209. AMENDMENTS TO THE INVESTMENT COMPANY**

4 **ACT OF 1940 AND THE INVESTMENT ADVIS-**
5 **ERS ACT OF 1940.**

6 (a) DEFINITIONS UNDER THE INVESTMENT COM-
7 PANY ACT OF 1940 AND THE INVESTMENT ADVISERS ACT
8 OF 1940.—

9 (1) Section 2(a)(36) of the Investment Com-
10 pany Act of 1940 (15 U.S.C. 80a-2(a)(36)) is
11 amended by inserting “security future,” after
12 “treasury stock,”.

13 (2) Section 202(a)(18) of the Investment Advis-
14 ers Act of 1940 (15 U.S.C. 80b-2(a)(18)) is amend-
15 ed by inserting “security future,” after “treasury
16 stock,”.

17 (3) Section 2(a) of the Investment Company
18 Act of 1940 (15 U.S.C. 80a-2(a)) is amended by
19 adding at the end the following:

20 “(52) The terms ‘security future’ and ‘narrow-
21 based security index’ have the same meanings as
22 provided in section 3(a)(55) of the Securities Ex-
23 change Act of 1934.”.

1 (4) Section 202(a) of the Investment Advisers
2 Act of 1940 (15 U.S.C. 80b–2(a)) is amended by
3 adding at the end the following:

4 “(25) The terms ‘security future’ and ‘narrow-
5 based security index’ have the same meanings as
6 provided in section 3(a)(55) of the Securities Ex-
7 change Act of 1934.”.

8 (b) OTHER PROVISION.—Section 203(b) of the In-
9 vestment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is
10 amended—

11 (1) by striking “or” at the end of paragraph
12 (4);

13 (2) by striking the period at the end of para-
14 graph (5) and inserting “; or”; and

15 (3) by adding at the end the following:

16 “(6) any investment adviser that is registered,
17 or required to be registered, with the Commodity
18 Futures Trading Commission as a commodity trad-
19 ing advisor and whose business does not consist pri-
20 marily of acting as an investment adviser, as defined
21 in section 202(a)(11) of this title.”.

1 **Subtitle B—Conforming Amend-**
2 **ments to the Commodity Ex-**
3 **change Act**

4 **SEC. 221. JURISDICTION OF SECURITIES AND EXCHANGE**
5 **COMMISSION.**

6 Section 2(a)(1) of the Commodity Exchange Act (7
7 U.S.C. 2, 2a, 4) is amended by adding at the end the fol-
8 lowing:

9 “(D)(i) Notwithstanding any other provi-
10 sion of this Act, the Securities and Exchange
11 Commission shall have jurisdiction and author-
12 ity over security futures as defined in section
13 3(a)(55) of the Securities Exchange Act of
14 1934, section 2(a)(16) of the Securities Act of
15 1933, section 2(a)(52) of the Investment Com-
16 pany Act of 1940, and section 202(a)(25) of
17 the Investment Advisers Act of 1940, options
18 on security futures, and persons effecting trans-
19 actions in security futures and options thereon,
20 and shall apply to and the Commission shall
21 have jurisdiction with respect to accounts,
22 agreements (including any transaction which is
23 of the character of, or is commonly known to
24 the trade as, an ‘option’, ‘privilege’, ‘indemnity’,
25 ‘bid’, ‘offer’, ‘put’, ‘call’, ‘advance guaranty’, or

1 ‘decline guaranty’) and transactions involving,
2 and may designate a board of trade as a con-
3 tract market in a security future product as de-
4 fined in section 1(a)(19) of this Act: *Provided,*
5 *however,* That no board of trade shall be des-
6 ignated as a contract market with respect to
7 any such contracts of sale for future delivery
8 unless the board of trade making such applica-
9 tion demonstrates and the Commission ex-
10 pressly finds that the specific contract with re-
11 spect to which the application has been made,
12 or the board of trade, meets the following cri-
13 teria:

14 “(I) That any security underlying the
15 security future, including each component
16 security of a contract of sale for future de-
17 livery on a narrow-based security index, be
18 registered pursuant to section 12 of the
19 Securities Exchange Act of 1934.

20 “(II) That the security future product
21 be cash settled.

22 “(III) That the security future prod-
23 uct not be traded on an exempt board of
24 trade or a designated transaction execution
25 facility.

1 “(IV) That the security future be
2 based upon common stock and such other
3 equity securities as the Commission deter-
4 mines appropriate.

5 “(V) That the security future product
6 is guaranteed by a clearing agency that
7 has in place provisions for linked and co-
8 ordinated clearing with other clearing
9 agencies that guarantee security future
10 products, which permits the security future
11 product to be purchased on a designated
12 contract market, national securities ex-
13 change registered under section 6(a) of the
14 Securities Exchange Act of 1934, or na-
15 tional securities association registered pur-
16 suant to section 15A(a) of the Securities
17 Exchange Act of 1934 and offset on an-
18 other designated contract market, national
19 securities exchange registered under sec-
20 tion 6(a) of the Securities Exchange Act of
21 1934, or national securities association
22 registered pursuant to section 15A(a) of
23 the Securities Exchange Act of 1934.

24 “(VI) That only futures commission
25 merchants, introducing brokers, commodity

1 trading advisers, commodity pool operators
2 or associated persons subject to suitability
3 rules comparable to those of a national se-
4 curities association registered pursuant to
5 section 15A(a) of the Securities Exchange
6 Act of 1934 solicit, accept any order for,
7 or otherwise deal in any transaction in or
8 in connection with a contract of sale for
9 future delivery in a security future prod-
10 uct.

11 “(VII) That the security future prod-
12 uct be subject to a prohibition against dual
13 trading in section 4j of this Act or the pro-
14 visions of section 11(a) of the Securities
15 Exchange Act of 1934 and the rules and
16 regulations thereunder, except to the ex-
17 tent otherwise permitted under the Securi-
18 ties Exchange Act of 1934 and the rules
19 and regulations thereunder.

20 “(VIII) That trading in a security fu-
21 ture product and any security that
22 underlies the security future product not
23 be readily susceptible to manipulation.

24 “(IX) That the board of trade has
25 procedures in place for coordinated surveil-

1 lance to detect manipulation and insider
2 trading between the contract market trad-
3 ing the security future product, the market
4 trading the securities underlying the secu-
5 rity future product, and other markets
6 trading related securities.

7 “(X) That the contract market trad-
8 ing the security future product has in place
9 audit trails necessary or appropriate to fa-
10 cilitate the coordinated surveillance re-
11 quired in subclause (IX).

12 “(XI) That the contract market trad-
13 ing the security future product has in place
14 procedures to coordinate trading halts be-
15 tween that contract market and markets
16 trading the securities underlying the secu-
17 rity future product and other markets
18 trading related securities.

19 “(XII) That the margin requirements
20 for a security future product be consistent
21 with the margin requirements for com-
22 parable option contracts traded on an ex-
23 change registered pursuant to section 6(a)
24 of the Securities Exchange Act of 1934
25 and that initial and maintenance margin

1 levels for a security future product shall
2 not be lower than the levels of margin re-
3 quired for comparable option contracts
4 traded on an exchange registered pursuant
5 to section 6(a) of the Securities Exchange
6 Act of 1934. Nothing in this subclause
7 shall be construed to prevent a board of
8 trade from requiring higher margin levels
9 for a security future product when it
10 deems such action is necessary or appro-
11 priate.

12 “(ii) It shall be unlawful for any person to
13 offer, to enter into, to execute, to confirm the
14 execution of, or to conduct any office or busi-
15 ness anywhere in the United States, its terri-
16 tories or possessions, for the purpose of solie-
17 iting, or accepting any order for, or otherwise
18 dealing in, any transaction in, or in connection
19 with, a contract for the purchase or sale of a
20 security future product for future delivery
21 unless—

22 “(I) such transaction is conducted on
23 or subject to the rules of a board of trade
24 which has been designated by the Commis-

1 sion as a contract market in a security fu-
2 ture product;

3 “(II) such contract is executed or con-
4 summed by or through a member of such
5 contract market; and

6 “(III) such contract is evidenced by a
7 record in writing which shows the date, the
8 parties to such contract and their address-
9 es, the property covered and its price: *Pro-*
10 *vided*, That each contract market member
11 shall keep such record for a period of 3
12 years from the date thereof, or for a longer
13 period if the Commission shall so direct,
14 which record shall at all times be open to
15 the inspection of any representative of the
16 Commission or the Securities and Ex-
17 change Commission or the Department of
18 Justice.

19 “(iii)(I) Except as provided in subclause
20 (II) but notwithstanding any other provision of
21 this Act, no person shall offer to enter into,
22 enter into, or confirm the execution of any op-
23 tion on a security future.

24 “(II) After 3 years after the date of enact-
25 ment of the Commodity Futures Modernization

1 Act of 2000, the Commission and the Securities
2 and Exchange Commission may by order deter-
3 mine to permit trading of options on any secu-
4 rity future authorized to be traded under the
5 provisions of this Act and the Securities Ex-
6 change Act of 1934. Before any such deter-
7 mination, the Commission and the Securities
8 and Exchange Commission shall conduct a
9 study of the effect of the trading of security fu-
10 tures on the markets for futures contracts, se-
11 curities, and options and the adequacy of pro-
12 tections for investors and other market partici-
13 pants.

14 “(iv)(I) All records of persons registered
15 with the Commission pursuant to section
16 4f(a)(2) and exempt from registration pursuant
17 to section 4k(6) and a board of trade des-
18 ignated as contract market in security futures
19 pursuant to section 5c are subject at any time,
20 or from time to time, to such reasonable peri-
21 odic, special, or other examinations by rep-
22 resentatives of the Commission as the Commis-
23 sion deems necessary or appropriate in the pub-
24 lic interest, for the protection of investors, or
25 otherwise in furtherance of the purposes of this

1 title if the Commission, prior to conducting any
2 such examination of a futures commission mer-
3 chant, introducing broker, floor trader, or floor
4 broker registered pursuant to section 4f(a)(2),
5 or associated person exempt from registration
6 pursuant to section 4k(6), or a board of trade
7 designated as a contract market in a security
8 future product pursuant to section 5c, give no-
9 tice to the Securities and Exchange Commission
10 such proposed examination and consult with the
11 Securities and Exchange Commission con-
12 cerning the feasibility and desirability of coordi-
13 nating such examination with examinations con-
14 ducted by the Securities and Exchange Com-
15 mission with a view to avoiding unnecessary
16 regulatory duplication or undue regulatory bur-
17 dens for such registrant or board of trade.

18 “(II) The Commission shall notify the Se-
19 curities and Exchange Commission of any ex-
20 amination conducted of any futures commission
21 merchant, introducing broker, floor trader, or
22 floor broker registered pursuant to section
23 4f(a)(2), or associated person exempt from reg-
24 istration pursuant to section 4k(6), or a board
25 of trade designated as a contract market in a

1 security future product pursuant to section 5c,
2 and, upon request, furnish to the Commission
3 any examination report and data supplied to
4 the Securities and Exchange Commission in
5 connection with such examination.

6 “(III) The Commission shall, to the fullest
7 extent possible, use the reports of examinations
8 of any futures commission merchant, intro-
9 ducing broker, floor trader, or floor registered
10 pursuant to section 4f(a)(2), or associated per-
11 son exempt from registration pursuant to sec-
12 tion 4k(6), or a board of trade designated as a
13 contract market in a security future product
14 pursuant to section 5c, made by the Securities
15 and Exchange Commission, a national securities
16 association registered pursuant to section
17 15A(a) of the Securities Exchange Act of 1934
18 (15 U.S.C. 78o-3), or a national securities ex-
19 change registered pursuant to section 6(g) of
20 the Securities Exchange Act of 1934 (15
21 U.S.C. 78f(g)).

22 “(IV) Nothing in this subsection shall be
23 construed to impair or limit (other than by the
24 requirement of prior consultation) the power of
25 the Commission under this subsection to exam-

1 ine any futures commission merchant, intro-
2 ducing broker, floor trader, or floor broker reg-
3 istered pursuant to section 4f(a)(2), or associ-
4 ated person exempt from registration pursuant
5 to section 4k(6), or a board of trade designated
6 as a contract market in a security future prod-
7 uct pursuant to section 5c, or to affect in any
8 way the power of the Commission under any
9 other provision of this Act.”.

10 (b) MARGIN ON SECURITY FUTURES.—Section
11 2(a)(1)(B)(vi) of the Commodity Exchange Act (7 U.S.C.
12 2a(vi)) is amended—

13 (1) by redesignating subclause (V) as subclause
14 (VI); and

15 (2) by striking “(vi)(I)” and all that follows
16 through subclause (IV) and inserting the following:

17 “(vi)(I) Notwithstanding any
18 other provision of this Act, any con-
19 tract market in a stock index futures
20 (or option thereon), other than a secu-
21 rity future product, shall file with the
22 Board of Governors of the Federal
23 Reserve System any rule establishing
24 or changing the levels of margin (ini-
25 tial and maintenance) for such stock

1 index futures contract (or option
2 thereon), other than security future
3 products.

4 “(II) The Board may at any time
5 request any contract market to set the
6 margin for any stock index futures
7 contract (or option thereon), other
8 than for any security future product,
9 at such levels as the Board in its
10 judgment determines are appropriate
11 to preserve the financial integrity of
12 the contract market or its clearing
13 system or to prevent systemic risk. If
14 the contract market fails to do so
15 within the time specified by the Board
16 in its request, the Board may direct
17 the contract market to alter or supple-
18 ment the rules of the contract market
19 as specified in the request.

20 “(III) Subject to such conditions
21 as the Board may determine, the
22 Board may delegate any or all of its
23 authority, relating to margin for any
24 stock index futures contract, other

1 than security future products, under
2 this clause to the Commission.

3 “(IV) JOINT REGULATIONS.—

4 “(aa) It shall be unlawful
5 for any futures commission mer-
6 chant to directly or indirectly, ex-
7 tend or maintain, credit to or for,
8 arrange for the extension or
9 maintenance of credit to or for or
10 collect margin from any customer
11 on any security future product,
12 in contravention of the rules and
13 regulation which the Commission
14 and the Securities and Exchange
15 Commission shall prescribe pur-
16 suant to item (bb) of this sub-
17 clause.

18 “(bb) The Commission and
19 the Securities and Exchange
20 Commission shall issue jointly
21 such regulations to establish
22 margin requirements, including
23 the establishment of levels of
24 margin (initial and maintenance)
25 and use of collateral for security

1 future products under such
2 terms, and at such levels as the
3 Commission and the Securities
4 and Exchange Commission joint-
5 ly deem: (1) appropriate to pre-
6 serve the financial integrity of
7 markets trading security future
8 products; (2) to prevent systemic
9 risk; (3) to make equivalent the
10 margin levels (initial and mainte-
11 nance) and other margin require-
12 ments between security future
13 products and comparable options
14 on securities traded on national
15 securities exchange; and (4) to
16 ensure that the margin require-
17 ments, other than levels of mar-
18 gin, including the type, form, and
19 use of collateral for security fu-
20 ture products, are and remain
21 consistent with the requirements
22 established by the Federal Re-
23 serve Board, pursuant to sub-
24 paragraphs (A) and (B) of sec-

1 tion 7(c)(1) of the Securities Ex-
2 change Act of 1934.

3 “(V) Nothing in this clause shall
4 supersede or limit the authority grant-
5 ed to the Commission in section 8a(9)
6 to direct a contract market, on finding
7 an emergency to exist, to raise tem-
8 porary margin levels on any futures
9 contract, or option on the contract
10 covered by this clause, or on any secu-
11 rity future product.”.

12 **SEC. 222. APPLICATION OF THE COMMODITY EXCHANGE**
13 **ACT TO NATIONAL SECURITIES EXCHANGES**
14 **AND NATIONAL SECURITIES ASSOCIATIONS**
15 **THAT TRADE SECURITY FUTURES.**

16 (a) NOTICE DESIGNATION OF NATIONAL SECURITIES
17 EXCHANGES AND NATIONAL SECURITIES ASSOCIA-
18 TIONS.—The Commodity Exchange Act is amended by in-
19 serting after section 5c (7 U.S.C. 7b) the following:

20 **“SEC. 5d. DESIGNATION OF SECURITIES EXCHANGES AND**
21 **ASSOCIATIONS AS CONTRACT MARKETS.**

22 “(a) Any board of trade that is registered with the
23 Securities and Exchange Commission as a national securi-
24 ties exchange or is a national securities association reg-
25 istered pursuant to section 15A(a) of the Securities Ex-

1 change Act of 1934 shall be a designated contract market
2 in security future products provided that such national se-
3 curities exchange or national securities association—

4 “(1) lists or trades no other contracts of sale
5 for future delivery, except for contracts of sale for
6 future delivery in security future products;

7 “(2) files written notice with the Commission in
8 such form as the Commission, by rule, may prescribe
9 containing such information as the Commission, by
10 rule, may prescribe as necessary or appropriate in
11 the public interest or for the protection of cus-
12 tomers; and

13 “(3) is not subject to a suspension pursuant to
14 an order by the Securities and Exchange Commis-
15 sion.

16 “(b)(1) A national securities exchange or national se-
17 curities association that is designated as a contract market
18 pursuant to section 5d of this Act shall be exempt from
19 the following provisions of this Act and the rules there-
20 under:

21 “(B) Section 4h.

22 “(C) Subsections (a) and (d) of section 4j.

23 “(D) Section 5.

24 “(E) Section 5a.

25 “(F) Subsections (a), (b), and (c) of section 5d.

1 “(G) Section 6a.

2 “(ix) Subsections (b), (c), (d) and (e) of section

3 8.

4 “(x) Section 8e.

5 “(xi) Subsections (a) and (f) of section 9.

6 “(xiv) Section 16.

7 “(xv) Section 22(b).

8 “(2)(A) Except as provided in subparagraph (B), but
9 notwithstanding any other provision of this Act, the Com-
10 mission, by rule, regulation, or order, may conditionally
11 or unconditionally exempt any designated contract market
12 in security futures subject to the designation requirement
13 of section 5d of this Act, from any provision or provisions
14 of this Act or of any rule or regulation thereunder, to the
15 extent such exemption is necessary or appropriate in the
16 public interest and is consistent with the protection of in-
17 vestors.

18 “(B) The Commission shall, by rule or regulation, de-
19 termine the procedures under which an exemptive order
20 under this section shall be granted and may, in its sole
21 discretion, decline to entertain any application for an
22 order of exemption under this section.”.

23 (b) NOTICE REGISTRATION OF SECURITIES BROKER-
24 DEALERS.—Section 4f(a) of the Commodity Exchange
25 Act (7 U.S.C. 6f(a)) is amended—

1 (1) by inserting “(1)” after “(a)”; and

2 (2) by adding at the end the following:

3 “(2) Notwithstanding subsection (a), any broker or
4 dealer that is registered with the Securities and Exchange
5 Commission shall be registered as a futures commission
6 merchant, introducing broker, floor broker, or floor trader,
7 as applicable, if such broker or dealer—

8 “(A) limits its solicitation of orders, acceptance
9 of orders, or the execution of orders, or placing of
10 orders on behalf of others involving any contracts of
11 sale of any commodity for future delivery, on or sub-
12 ject to the rules of any contract market to those con-
13 tracts of sale on security future products;

14 “(B) files written notice with the Commission
15 in such form as the Commission, by rule, may pre-
16 scribe containing such information as the Commis-
17 sion, by rule, may prescribe as necessary or appro-
18 priate in the public interest or for the protection of
19 investors;

20 “(C) is not subject to a suspension pursuant to
21 an order of the Securities and Exchange Commis-
22 sion; and

23 “(D) is a member of a national securities asso-
24 ciation registered pursuant to section 15A(a) of the
25 Securities Exchange Act of 1934.”.

1 (c) EXEMPTION FOR SECURITIES BROKER-DEALERS
2 FROM CERTAIN PROVISIONS OF THE COMMODITY EX-
3 CHANGE ACT.—Section 4f(a) of the Commodity Exchange
4 Act (7 U.S.C. 6f(a)) is amended by inserting after para-
5 graph (2), as added by subsection (b), the following:

6 “(3)(A) A broker or dealer that is registered as a fu-
7 tures commission merchant, introducing broker, floor
8 broker, or floor trader, pursuant to paragraph (2) shall
9 be exempt from the following provisions of this Act and
10 the rules thereunder:

11 “(i) Sections 4c, 4d, and 4e.

12 “(ii) Subsections (b) and (c) of this section.

13 “(iii) Subsections (b) and (c) of section 4j.

14 “(iv) Subsections (a) and (b) of section 4p.

15 “(v) Section 6d.

16 “(vi) Section 8(g).

17 “(vii) Section 22(a).

18 “(B)(i) Except as provided in clause (ii), but notwith-
19 standing any other provision of this Act, the Commission,
20 by rule, regulation, or order, may conditionally or uncondi-
21 tionally exempt any broker or dealer subject to the reg-
22 istration requirement of paragraph (2) of this subsection,
23 from any provision or provisions of this Act or of any rule
24 or regulation thereunder, to the extent such exemption is

1 necessary or appropriate in the public interest and is con-
2 sistent with the protection of investors.

3 “(ii) The Commission shall, by rule or regulation, de-
4 termine the procedures under which an exemptive order
5 under this section shall be granted and may, in its sole
6 discretion, decline to entertain any application for an
7 order of exemption under this section.”.

8 (d) NOTICE REGISTRATION AND EXEMPTIONS FOR
9 ASSOCIATED PERSONS OF SECURITIES BROKER-DEAL-
10 ERS.—Section 4k of the Commodity Exchange Act (7
11 U.S.C. 6k) is amended by adding at the end the following:

12 “(6) Any person who is an associated person of
13 broker or dealer that is registered with the Securities and
14 Exchange Commission, and who limits its solicitation of
15 orders, acceptance of orders, or the execution of orders,
16 or placing of orders on behalf of others involving any con-
17 tracts of sale of any commodity for future delivery, on or
18 subject to the rules of any contract market to those con-
19 tracts of sale on security future products, shall be exempt
20 from the following provisions of this Act and the rules
21 thereunder:

22 “(A) Sections 4c, 4d, and 4e.

23 “(B) Subsections (b) and (c) of section 4f.

24 “(C) Subsections (b) and (c) of section 4j.

25 “(D) Section 4k(1).

1 “(E) Subsections (a) and (b) of section 4p.

2 “(F) Section 6d.

3 “(G) Section 8(g).

4 “(H) Section 22(a).”.

5 **SEC. 223. NOTIFICATION OF INVESTIGATIONS AND EN-**
6 **FORCEMENT ACTIONS.**

7 (a) Section 8(a) of the Commodity Exchange Act (7
8 U.S.C. 12(a)) is amended by adding at the end the fol-
9 lowing:

10 “(3) The Commission shall file with the Securities
11 and Exchange Commission notice of the commencement
12 of any proceeding and a copy of any order entered by the
13 Commission against any futures commission merchant, in-
14 troducing broker, floor trader or floor broker registered
15 pursuant to section 4f(a)(2) of this Act, any associated
16 person exempt from registration pursuant to section 4k(6)
17 of this Act, or any board of trade designated as a contract
18 market pursuant to section 5d of this Act.”.

19 (b) Section 6 of the Commodity Exchange Act (7
20 U.S.C. 8, 9, 9a, 9b, 13b, 15) is amended by adding at
21 the end the following:

22 “(g) The Commission shall file with the Securities
23 and Exchange Commission notice of the commencement
24 of any proceeding and a copy of any order entered by the
25 Commission pursuant to subsections (c) and (d) against

1 any futures commission merchant, introducing broker,
2 floor trader or floor broker registered pursuant to section
3 4f(a)(2) of this Act, any associated person exempt from
4 registration pursuant to section 4k(6) of this Act, or any
5 board of trade designated as a contract market pursuant
6 to section 5d of this Act.”.

7 (c) Section 6c of the Commodity Exchange Act (7
8 U.S.C. 13a–1) is amended by adding at the end the fol-
9 lowing:

10 “(h) The Commission shall file with the Securities
11 and Exchange Commission notice of the commencement
12 of any proceeding and a copy of any order entered by the
13 Commission against any futures commission merchant, in-
14 troducing broker, floor trader or floor broker registered
15 pursuant to section 4f(a)(2) of this Act, any associated
16 person exempt from registration pursuant to section 4k(6)
17 of this Act, or any board of trade designated as a contract
18 market pursuant to section 5d of this Act.”.

19 **Subtitle C—Effective Date**

20 **SEC. 231. EFFECTIVE DATE.**

21 This title and the amendments made by this title take
22 effect 1 year after the date of enactment of this Act.